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**Muhammad Subhi Apriantoro, Bagas Anuraga
Hawanda Choirunnisa Akbar, Rozi Irfan Rosyadhi**

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Commercial and Social Oriented

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Theory of Rights in Islamic Economic Law and Its Relation to
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Economy (Case Study of Sharia *Ta'awun* Cooperative Klaten Regency)

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Stock Investment with Scalping Trading Method in Islamic Law Perspective

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Abstract

This research is helpful to provide knowledge and reference sources on how to invest in stocks with a scalping trading strategy based on Islamic law, and investors can use it as the basis of Islamic law when investing in stocks with a scalping trading system. This research aims to determine how to invest in stocks using the scalping trading method and how to review Islamic law regarding scalping trading stock investment practices. This research used qualitative method, combines a deductive strategy with a descriptive approach to comprehensively represent the transaction process based on Islamic law. The supporting source for this research is derived from books, journals, and previous research. According to the findings of this research, the practice of investing in stocks using the scalping trading method is prohibited if stock transactions do not involve Islamic stocks. The stock transactions are based on an individual's advice and do not utilize the Sharia Online Trading System (SOTS). However, it is acceptable if the scalper analyses the stock transaction beforehand. This research suggests that people who wish to invest in stocks using the scalping method should use an account or system based on the Sharia Online Trading System (SOTS) and classify their stocks as Islamic stocks to avoid engaging in prohibited practices under Islamic law.

Keywords: *Islamic Law; Investment; Stocks; Scalping Trading; SOTS*

Abstrak

Penelitian ini bermanfaat untuk memberikan pengetahuan dan sumber referensi tentang cara berinvestasi saham dengan strategi perdagangan scalping berdasarkan hukum Islam, dan investor dapat menggunakannya sebagai dasar hukum Islam ketika berinvestasi pada saham dengan sistem perdagangan scalping. Tujuan dari penelitian ini adalah untuk mengetahui bagaimana praktik investasi saham dengan metode perdagangan scalping dan bagaimana tinjauan hukum Islam terhadap praktik investasi saham dengan metode perdagangan scalping. Penelitian ini menggunakan metode kualitatif, dengan pendekatan deduktif-deskriptif untuk memberikan representasi secara utuh sehingga proses transaksi berdasarkan hukum Islam dapat direpresentasi secara integral. Sumber referensi dari penelitian ini bersumber dari buku, jurnal, dan penelitian terdahulu sebagai pendukung penelitian. Hasil dalam penelitian ini adalah praktik investasi saham dengan metode perdagangan scalping dilarang jika transaksi tidak termasuk dalam saham syariah. Transaksi saham yang dilakukan mengikuti rekomendasi dari pihak tertentu dan tidak menggunakan Syariah Online Trading System (SOTS). Namun, diperbolehkan jika scalper terlebih dahulu melakukan analisa terhadap transaksi saham. Penelitian ini menyarankan agar masyarakat yang ingin berinvestasi saham dengan metode perdagangan scalping hendaknya menggunakan akun atau sistem yang berdasarkan Syariah Online Trading System (SOTS) serta mengklasifikasikan saham kedalam kategori saham syariah agar terhindar dari praktik yang dilarang oleh syariat Islam.

Kata Kunci: *Hukum Islam; Investasi; Saham; Perdagangan Scalping; SOTS*

Introduction

It can mitigate the economic effects by taking the necessary steps to reduce them.¹ However, although nations take measures to prevent the spread of Covid-19, the financial products remain unknown. Recently, the space of Covid-19 caused a decline in stock market indicators because most sectors experienced a recession due to curfews imposed to control the virus's spread. Various datasets related to Covid-19 indicators and stock markets for each Gulf Cooperation Council (GCC) nation are collected from the "Trading

¹Muhamad Subhi Apriantoro, Indah Noor Rahayuningsih, and Sarwanto, "Implementation of Green Economy Through Integrated Urban Farming as Family Economic Resilience During the Pandemic: Maqasid Sharia Perspective," *Iqtishoduna: Jurnal Ekonomi Islam: Jurnal Ekonomi Islam* 11, no. 1 (2022): 3, <https://doi.org/10.54471/iqtishoduna.v11i1.1593>.

Economics” website. In addition, the construction of visualizations of the most important factors supporting the facts extracted from the correlation analytics results revealed that Bahrain was the nation most affected by the Covid-19 pandemic, with 47.351 confirmed cases per million populations.²

Conventional market theory focuses on investor rights and acts as a buffer against a typical financial crises, including those resulting from spectacular returns by any group, which are not guaranteed under the current form of the capitalistic capital market system. The outcomes of the persistent financial crisis imply that the market should be governed by a system that ensures efficiency, justice, accountability, a fair distribution of profits among investors, good governance, and investors with ethical traits. The capital market structure provided by the West, including its philosophy of efficiency, does not adequately safeguard small and less efficient investors. Alternatively, during the current financial crisis, the globe witnessed the importance of the Islamic sharia’s value-based principles in the banking sector. To preserve the interests of investors, a stock market with the same value-based system can be presented as a viable alternative to the current system. Islamic investment and finance have been developed for a long time as a form of financial intermediation for the Islamic community to conduct financial transactions in accordance with Islamic principles. This decade has seen a rapid evolution and expansion of the Islamic financial services industry, which has gained wider acceptance and appreciation and expanded beyond the traditional borders of Muslim-based economies into the major industrial economies.³

Global Islamic finance assets reached \$ 1.9tn by mid-2014 and Islamic banking continues to dominate the Islamic financial industry, holding approximately 80% of the total Islamic financial

²Khalid Alkhatib et al., “Regional Analytics and Forecasting for Most Affected Stock Markets: The Case of GCC Stock Markets During Covid-19 Pandemic,” *International Journal of System Assurance Engineering and Management* 13, no. 3 (2022): 1302, <https://doi.org/10.1007/s13198-021-01445-9>.

³Wahida Ahmad and Rafisah Mat Radzi, “Sustainability of Sukuk and Conventional Bond during Financial Crisis: Malaysia’s Capital Market,” *Global Economy and Financial Journal* 4, no. 2 (2011): 35, <https://zantworldpress.com/journals/?j=global-economy-and-finance-journal>.

assets. Since the beginning of the Global Financial Crisis (GFC) in 2008, the Islamic finance industry, which includes Islamic capital markets, has grown by an average of 17.5% annually. In addition, the international dimension of Islamic finance has grown in importance as it has become more integrated into the international financial system. Islamic finance has emerged as a competitive and resilient form of intermediation in a global environment that has become increasingly difficult and is characterized by volatile and unstable market conditions.⁴

Alongside the increasing developments of the Islamic financial system, the Islamic investment industry has experienced significant growth and developments, indicating a clear manifestation of the recognition of the Islamic index as a significant source for enhancing sharia-compliant protection against vulnerability or risk arising from unfavorable events. Assert that there has been an increase in economic theory literature that goes beyond simple optimality. In other words, economics has a moral dimension, and investors are concerned not only with what is profitable but also with what makes their investments moral.⁵

The Islamic finance industry as a whole seeks to promote businesses that are part of sectors or industries that add value to the real economy. Moreover, investors who are concerned with adhering to the Islamic way anticipate gaining wealth from their investments. The Islamic screening method, which is based on the consideration of low-debt, non-financial, and social-ethical investments, is commonly referred to as “*ethical investing*”, “*faith investing*”, or “*socially responsible investing*”. For instance, Cowton argued that the selection of an investment portfolio should take the ethical aspect of investing into account, implying that investors will pay more attention, and consideration to these methods of managing their investments.⁶

⁴Mohamed Sherif and Nor Azlina Shaairi, “Determinants of Demand on Family Takaful in Malaysia,” *Journal of Islamic Accounting and Business Research* 4, no. 1 (2013): 33, <https://doi.org/10.1108/17590811311314276>.

⁵Paul Webley, Alan Lewis, and Craig Mackenzie, “Commitment Among Ethical Investors: An Experimental Approach,” *Journal of Economic Psychology* 22, no. 1 (2001): 29, [https://doi.org/10.1016/S0167-4870\(00\)00035-0](https://doi.org/10.1016/S0167-4870(00)00035-0).

⁶Christopher J. Cowton, “The Development of Ethical Investment Products,” in *Ethical Conflicts in Finance* (United Kingdom: Blackwell Finance, 1994), 124.

Sharia compliance has consequently become one of the most important factors for such investors when making investment decisions. Comparing sharia compliant stocks to conventional stocks has garnered a great deal of attention in recent years. Since then, numerous researchers have debated whether the Global Financial Crisis had a smaller impact on sharia compliant stocks than on conventional stocks. Others have argued that conventional stocks should outperform sharia stocks, while some researchers have argued that the difference in performance between the two types of stocks should be minimal.⁷

Moreover, if a stock that was previously sharia-compliant is revealed to be non sharia-compliant, it is anticipated that investors and fund managers who are concerned that their wealth, investments, and profits are sharia-compliant will sell the stock and replace it with non sharia-compliant stock. This would have a negative effect on the stock price. On the other side, the value of stocks that were previously non sharia-compliant but are now recognized as sharia compliant is anticipated to rise. As the country with the fourth-largest population in the world, with approximately 246.6 million people, both renewable (agricultural products) and non-renewable sources are abundant in Indonesia (mining and minerals).

Geographically, Indonesia encompasses a total area of 5.020.606 km² and 17.508 islands. The Indonesian government has been assigned a definitive rating of Baa3 (stable outlook) by Mood's Investors Service due to the country's narrow fiscal deficits, low public debt, healthy economic growth prospects, and sizeable economy. Indonesia, one of the world's largest Muslim-majority nations, lags behind Malaysia in terms of Islamic finance fundamentals.⁸ Despite the growing demand for sharia-compliant investments, only a few studies have been conducted in this field. The opportunity to develop

⁷Carl B. McGowan and Junaina Muhammad, "The Theoretical Impact of the Listing of Syariah-Approved Stocks on Stock Price and Trading Volume," *International Business & Economics Research Journal (IBER)* 9, no. 3 (2010): 14, <https://doi.org/10.19030/iber.v9i3.532>.

⁸Muhammad Syafii Antonio, Hafidhoh, and Hilman Fauzi, "The Islamic Capital Market Volatility: A Comparative Study Between in Indonesia and Malaysia," *Buletin Ekonomi Moneter Dan Perbankan* 15, no. 4 (2013): 402, <https://doi.org/10.21098/bemp.v15i4.73>.

shariah investment is increasing in tandem with the rising number of investment needs and the country's status as the largest Muslim population on the planet. The performance of the Indonesia sharia-compliant Stock Index (ISSI), the Jakarta Index (JII), and the Jakarta Composite Index (JCI) from the ISSI launch to the end of 2014.

Investing in stocks currently contributes to globalization and economic expansion. Investment is investing in one or more assets over time with the expectation of earning a profit.⁹ Before investing in shares, several prerequisites must be met, including preparing personal documents in the form of an Identity Card (KTP), Taxpayer Identification Number (NPWP), and savings book, filling out the formula at the securities company, and depositing capital to the investor's fund account number. Next, we await confirmation from affiliated parties and are prepared to invest.¹⁰

Capital market investors utilize six investment products. One of them consists of stock. When shareholders own shares in a public company, the stakes are issued in paper certificates (issuer). Investing in general, however, is distinct from Islamic investment, which seeks Allah's pleasure to benefit both this world and the hereafter.¹¹

Investing requires knowledge of the fundamentals of investment decisions and how to structure investment decision process activities.¹² For this reason, an investor must comprehend the relationship pattern between the expected return and the risk of the investment in advance.¹³ In general, an investor anticipates a

⁹Viktor Manahov, "Front-Running Scalping Strategies and Market Manipulation: Why Does High-Frequency Trading Need Stricter Regulation?," *Financial Review* 51, no. 3 (2016): 372, <https://doi.org/10.1111/fire.12103>.

¹⁰A. S. Serrano, "High-Frequency Trading and Systemic Risk: A Structured Review of Findings and Policies," *Review of Economics* 71, no. 3 (2020): 175, <https://doi.org/10.1515/roe-2020-0028>.

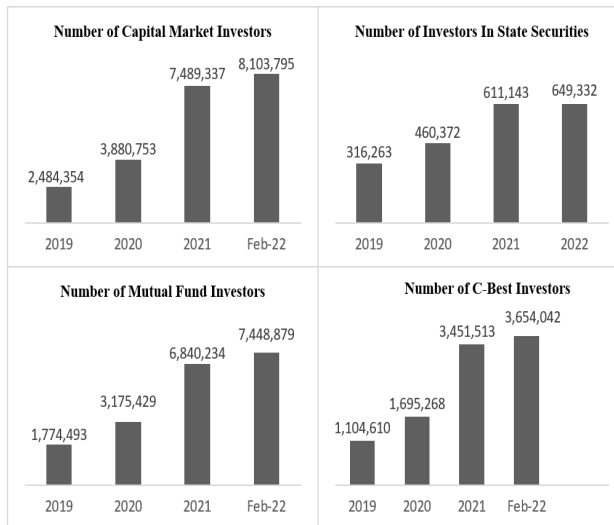
¹¹H. Ashton, "AI Legal Counsel to Train and Regulate Legally Constrained Autonomous Systems," in *Proceedings of International Conference on Big Data 2020* (New Jersey: IEEE, 2020), 2096, <https://doi.org/10.1109/BigData50022.2020.9378389>.

¹²Mohammad Tariqul Islam Khan et al., "Investment Environment, Stock Market Perception and Stock Investments After Stock Market Crash," *International Journal of Emerging Markets* 16, no. 3 (2021): 47, <https://doi.org/10.1108/IJOEM-03-2021-0456>.

¹³Anton Aksenov, Elizaveta Grebenshchikova, and Rustam Fayzrakhmanov, "Front-Running Model in the Stock Market," in *Proceedings 2nd International Conference on Control Systems, Mathematical Modeling, Automation and Energy Efficiency, SUMMA*

relationship with the same objective and is straight (linear), namely the relationship between risk and return, which means that the higher the expected return, the greater the risk, or vice versa. This relationship is the reason why investors only invest in high-return assets.¹⁴ Additionally, reason why investors only invest in high-return assets.¹⁵ Additionally, investors must consider the level of risk that must be borne.¹⁶

Figure 1. SID Growth Data



Source: Indonesian Central Securities Depository 2022

In Figure 1, depicts data from the Indonesian Central Securities Depository (KSEI) and describes various investment instruments, including stocks, mutual funds, and others. One of them is the

2020 (New Jersey: IEEE, 2020), 684, <https://doi.org/10.1109/SUMMA50634.2020.9280575>.

¹⁴Firman Pribadi, "Harga Saham Dan Nilai Tukar Dalam Vector Error Correction Model (Kasus Indonesia Dalam Masa Krisis Ekonomi)," *Riset Akuntansi Dan Keuangan Indonesia* 6, no. 1 (2017): 60, <https://doi.org/10.23917/reaksi.v6i1.3549>.

¹⁵Ibid., 66.

¹⁶Weishao Wu et al., "Tiered Information Disclosure: An Empirical Analysis of the Advance Peek into the Michigan Index of Consumer Sentiment," *Financial Review* 54, no. 3 (2019): 560, <https://doi.org/10.1111/fire.12184>.

increase of Indonesian Capital Market investors from 2019 to February 2022, which has reached 8 million.

Determining the most profitable investments requires precision, tenacity, and the use of accurate data, as well as the application of a risk-minimizing strategy.¹⁷ There are various trading strategies, including day trading, which is conducted during the day. Then, one to several day swing trading and scalping methods are employed briefly. Also included is technical analysis. Investors frequently use technical analysis to determine the stock price of an issuer based on the demand and supply of stock price movements using graphs or computer programs. Typically, this analysis is used in trading investments where you do not consider fundamentals such as the company's financial situation. Scalping is one type of strategy in technical analysis.¹⁸

Scalping is a strategy employed by scalpers (scalpers) to generate spreads in a short period by buying at the bid price (low) and selling at the ask price (high). Moreover, this strategy enables scalpers to profit even when the market is not moving and to concentrate on short-term positions with low-profit margins. Therefore, trading volume is a crucial aspect of scalping.¹⁹

As stated in the Fatwa of the National Sharia Council of the Indonesian Ulema Council No. 80/DSN-MUI/III/2011 concerning the Implementation of Sharia Principles in the Mechanism of Trading Equity Securities on the Indonesia Stock Exchange, transactions conducted by scalpers to make a quick profit violate sharia principles.²⁰ Consequently, scalpers are one of the legal topics associated with

¹⁷Sangeeta Arora and Kanika Marwaha, "Variables Influencing Preferences for Stocks (High Risk Investment) Vis-à-Vis Fixed Deposits (Low-Risk Investment)," *International Journal of Law and Management* 56, no. 4 (2014): 337, <https://doi.org/10.1108/IJLMA-07-2013-0032>.

¹⁸Shanshan Dong and Yun Feng, "Does Index Futures Trading Cause Market Fluctuations?," *China Finance Review International* 8, no. 2 (2018): 188, <https://doi.org/10.1108/CFRI-06-2017-0070>.

¹⁹Thomas H. McNish et al., "Fast and Slow Cancellations and Trader Behavior," *Financial Management* 49, no. 4 (2020): 978, <https://doi.org/10.1111/fima.12298>.

²⁰Shahnaz Naughton and Tony Naughton, "Religion, Ethics and Stock Trading: The Case of an Islamic Equities Market," *Journal of Business Ethics* 23, no. 2 (2000): 148, <https://doi.org/10.1023/A:1006161616855>.

illegal practices, speculation, and market manipulation.²¹

This research seeks to determine how Islamic law affects the practice of investing in stocks using the scalping trading method. This research is expected to provide information about investing in stocks using a scalping trading strategy by Islamic law, which investors can use to support following Islamic law using a scalping trading system.

In literature review, *first*, research by Muhammad Rendy Ramdhani aims to determine the scalper process in buying and selling shares, as well as the practice of buying and selling shares by scalpers who work at MNC securities in Bandung following sharia economic law. This research employs descriptive research methods and qualitative data sources to describe how scalpers who engage in short-term stock trading rely on technical analysis and positive news. Buying and selling shares by capital market scalpers at MNC securities Bandung lacks elements of *riba*, *gharar*, *dharar*, and *maysir*, particularly the *dharar* aspect in the form of *najasy* (false offers), which is basic manipulation.²² *Second*, research by Otabek Sattarov, et. al. have conducted research using research and development methods to produce and test these products. This research examines an application based on a strengthening learning algorithm in the cryptocurrency market. It aims to enable traders to formulate trading strategies with the appropriate three options, selling, purchasing, and holding shares. As a result, the trader receives sound advice and generates a profit. This research has revealed, however, that the algorithm of the application must be enhanced in order to maximize trader profits even further.²³ *Third*, research by Elif Pardiensyah conducted research using an empirical and theoretical approach that describes the conditions. The basis of their actions in the form of a theory that the foundation of investment with sharia principles

²¹Rima Rahmayanti et al., "The Maintaining of Trust of Online Business Trading from Islamic Perspective," *International Journal of Psychosocial Rehabilitation* 24, no. 2 (2020): 3070, <https://doi.org/10.37200/IJPR/V24I2/PR200610>.

²²Muhammad Rendy Ramdhani, "Tinjauan Hukum Ekonomi Syariah Terhadap Transaksi Yang Dilakukan Oleh Scalper Pasar Modal Di MNC Sekuritas Bandung" (UIN Sunan Gunung Djati Bandung, 2020), 80, <http://digilib.uinsgd.ac.id/37750/>.

²³Otabek Sattarov et al., "Recommending Cryptocurrency Trading Points with Deep Reinforcement Learning Approach," *Applied Sciences* 10, no. 4 (2020): 1510, <https://doi.org/10.3390/app10041506>.

is that it is permissible to invest unless there are arguments that prohibit it, namely if deviant activities are found in terms of objects or the process that contains *gharar*, *maysir*, *tadlis*, and *talaqqi rukban*. Then, a sharia screening method is required to identify material for running a business by sharia principles, namely, *first*, examining the managed business, including business products, and processes. *Second*, analyzing the ratio of non-*halal* income and interest debt to the amount of wealth owned.²⁴ *Fourth*, research by Erna Listyaningsih and Chandrasekhar Krishnamurti, this research findings supported the theory that, in response to bad news, investors will conduct more transactions on risky stocks (non-sharia) in order to avoid loss. During the research period, however, we found no significant difference in the performance of JII, sharia, and non-sharia stocks on TVA.²⁵

This research differs from literature review in that it examines the practice of investing with the scalping trading method in light of Islamic law. Therefore, this research is helpful to provide knowledge and reference sources on how to invest in stocks with a scalping trading strategy based on Islamic law, and investors can use it as the basis of Islamic law when investing in stocks with a scalping trading system.

Methodology

The researcher proposes a qualitative methodology for this research. They have progressed through time, according to Norman K. Denzin and Yvonna S. Lincoln, qualitative research is a globally positioned movement with an audience. This includes the quality of the explanations and the application of materials that bring the creations to life. This observation changed the course of history. They transform the world into a series of illustrations, including field notes, conversations, dialogues, images, recordings, and notes on personality.²⁶

²⁴Elif Pardiansyah, "Investasi Dalam Perspektif Ekonomi Islam: Pendekatan Teoritis Dan Empiris," *Economica: Jurnal Ekonomi Islam* 8, no. 2 (2017): 343, <https://doi.org/10.21580/economica.2017.8.2.1920>.

²⁵Erna Listyaningsih and Chandrasekhar Krishnamurti, "The Impact of Global Financial Crisis on Jakarta Islamic Index (JII): A Trading Volume Perspective," *Advanced Science Letters* 23, no. 9 (2017): 8199, <https://doi.org/10.1166/asl.2017.9861>.

²⁶Norman K. Denzin and Yvonna S. Lincoln, *Handbook of Qualitative Research*

This research employs a descriptive method and a deductive strategy. The ideal way examines the status of a group of individuals, objects, conditions, thought systems, and future events. This method enables researchers to provide a comprehensive picture so that the transaction mechanism according to Islamic law can accurately describe and explains how scalpers conduct transactions on the capital market. In addition, this research data sources were obtained from books, journals, and previous research for use as a research foundation.

The data is obtained from numerous sources, including manuals and legislation, such as a *fatwa* on stock investment issued by the national sharia board. This information was subsequently bolstered by academics' direct testing of the Sharia Online Trading System (SOTS) for stock trading.

This research data analysis technique is a descriptive procedure in which the researcher interprets, comprehends, and analyzes the text's content. According to Creswell, detailed description means the author describes what the reader sees. These details are provided within the context of the person, location, or event.²⁷

Results and Discussion

Trading is a common occurrence in the stock market and bond market. The term for traders is a trader. Traders profit from price fluctuations to determine the difference between selling and buying prices. Therefore, investors can purchase stocks at a low price and sell them at a high price. Typically, the time between a purchase and a sale is brief, lasting only minutes, hours, days, or weeks. Thus, there are more stock transactions in a shorter time.²⁸

Generally, a trader's strategy is not centered on the performance of a particular stock but rather on market information and circumstance. As a result, traders can benefit from technical analysis by basing their decisions on price volatility and buying and selling

(London: Sage Publications, 2011), 87.

²⁷John W. Creswell and Cheryl N. Poth, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches* (New Jersey: Sage Publications, 2016), 125.

²⁸Anup Chowdhury, Moshfique Uddin, and Keith Anderson, "Trading Behaviour and Market Sentiment: Firm-Level Evidence from an Emerging Islamic Market," *Global Finance Journal* 53, no. 1 (2021): 101, <https://doi.org/10.1016/j.gfj.2021.100621>.

capacity. The various types of trading strategies. *First*, day trading, according to its name, the stock trading strategy is executed in a single trading day. To avoid insurmountable risks and price fluctuations between the opening and closing of the market the following day, all transactions are conducted before the market closes. *Second*, swing trading, is a trading strategy involving holding assets for one to several days to generate a profit. *Third*, scalping, is the shortest trading timeframe. Scalpers enter the market at the bid and exit at the ask. As a result of the transaction, the scalper profits from the disparity between the purchase and sale prices. This strategy enables scalpers to generate profits even when the market is inactive.

Before entering the market, a trader must create a trading plan that includes the expected profit and loss. This allows the trader to anticipate all possible outcomes. Scalpers can choose stocks as scalping trading targets, with the good news method being one option. This method focuses on stock selection by analyzing market information about issuers whose financial statements or corporate actions elicited a positive response from investors. Scalpers can prepare a cut loss (sell loss) when the initial analysis indicates that the stock price will rise. However, due to several factors, the price decreased. To avoid a substantial loss, a loss is reduced by the objective.

Figure 2. Scalper Flow in Shares Buying and Selling Transactions



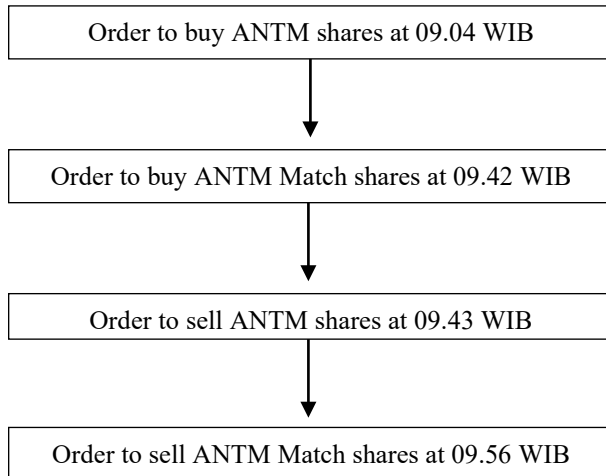
Source: Sattarov, et. al. 2020.²⁹

²⁹Sattarov et al., "Recommending Cryptocurrency Trading Points with Deep Reinforcement Learning Approach," 1512.

Based on Figure 2, a scalper seeks to profit from frequent small movements, namely the difference between the bid and ask prices.

The below flowchart practice utilizes shares with the code ANTM in quantities of up to 300 or 3 lots (units for buying shares in Indonesia). The owner of the ANTM code is PT. Aneka Tambang Tbk., a company engaged in the mining and exploration of mineral resources in Indonesia, including gold, nickel ore, coal, and other minerals.

Figure 3. Flowchart of Scalping Trading Practice



Source: Observation Data

Based on the preceding flowchart, at 09.04 WIB on 20nd of October 2020, scalper placed a purchase (buy order) for Rp 1.035,- per share worth of ANTM shares in the quantity of 3 lots (300 units), which was then matched at 09.42 WIB. Then, at 09.56 WIB, the scalper executed a sale (sale order) for ANTM shares at Rp 1.055,- per share for 3 lots (300 shares), and a match occurred. This transaction resulted in a profit (capital gain) of Rp 20,- per share for the scalper.

The decision to purchase ANTM shares to generate quick profits is based on positive news and technical analysis. The information in question is positive. Tesla, a US automaker manufacturing electric

vehicle, is searching for regions to meet its battery requirements. The news source was published one day before scalpers began buying and selling shares with the code ANTM. The relevant party, namely the Minister of Industry, also confirmed this. In addition, future development is planned for the city of Batang in Central Java. The relationship between this news about Tesla and ANTM is positive because one of ANTM's activities is the exploration of nickel ore, which is a key component in battery production. The decision to build a factory in Indonesia is predicated on the country's abundant nickel reserves.

Islamic equities and conventional stocks trade on the same market, however Islamic stocks must meet certain sharia requirements. Nevertheless, their performance varies according to region, product type, crisis connection, size, and effectiveness. Taking into account all of these variables, investors are choosing markets where they may achieve higher returns through international diversification and where they have the option to share market risk. The rise of Islamic stocks in developing nations exposes additional opportunities for competition that can enhance system efficiency. The penetration of Islamic stocks into the developed market, where transactions are conducted more effectively than in emerging markets, is a noteworthy trend. The greater performance of Islamic stocks throughout the financial crisis is debatable. Although the Islamic financial industry is expanding rapidly in poor and emerging nations, its performance on the surface does not guarantee similar outcomes in other places with developed capital. However, the market's capacity to perform effectively throughout and after the crisis is indicative of its robustness. The past is a historical event, and the lessons learnt will assist investors in achieving their future goals.

In order for the Islamic stock market to be stable and offer capital inflow, regulatory functions must be implemented to create a healthy market environment. In a different market setting, Islamic indices generated huge anomalous returns during a bull market and negligible or negative returns during a bear market.³⁰ The statistics

³⁰Khaled Hussein and Mohammed Omran, "Ethical Investment Revisited," *The Journal of Investing* 14, no. 3 (2005): 110, <https://doi.org/10.3905/joi.2005.580557>.

regularly demonstrate an increase in sharia-compliant investments, which encourages investors to purchase rather than sell. Moreover, the profits in this market are a function of risk-based remuneration, not mispricing.³¹ However, only 45% of the 2066 Islamic equities effect financial news, with those that are profitable and impacting the news possessing premium risk, as well as other characteristics of simple trading (buy and sell) and momentum techniques.³² According to Saban Nazlioglu, Shawkat Hammoudeh, and Rangan Gupta, the data also demonstrate an additional competitive advantage of Islamic stocks, particularly during recessionary periods (2015).³³

Although Muslims are considered pioneers of profit-and-loss sharing investments in businesses through contractual agreements, which predate the concept of stock markets, the current form of the stock market prevents the devout among them from seeking economic benefits from it due to several unsatisfactory provisions from the perspective of sharia or Islamic law. In light of this, despite the religious incentive for Muslims to pursue economic opportunities, they cannot fully participate in regular stock markets. In addition, Islamic stock markets are still in their infancy. The majority of stock exchanges in Muslim nations are essentially Western-style markets that permit several actions that contradict Islamic norms. Due to the lack of attention on Islamic finance, there is a paucity of literature on the functioning and concepts of the Islamic stock market.

One of the contracts used in sharia stock transactions is a sale and purchase contract. In Islam, the law of buying and selling is permissible as the word of Allah Swt. in the Qur'an surah Al-Baqarah verse 275:

³¹Paresh Kumar Narayan and Dinh Hoang Bach Phan, "Momentum Strategies for Islamic Stocks," *Pacific-Basin Finance Journal* 42, no. 1 (2017): 99, <https://doi.org/10.1016/j.pacfin.2016.05.015>.

³²Paresh Kumar Narayan et al., "Is There a Financial News Risk Premium in Islamic Stocks?," *Pacific-Basin Finance Journal* 42, no. 2 (2017): 161, <https://doi.org/10.1016/j.pacfin.2017.02.008>.

³³Saban Nazlioglu, Shawkat Hammoudeh, and Rangan Gupta, "Volatility Transmission Between Islamic and Conventional Equity Markets: Evidence from Causality in Variance Test," *Applied Economics* 47, no. 46 (2015): 10, <https://doi.org/10.1080/00036846.2015.1039705>.

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ
ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ
مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ
النَّارِ هُمْ فِيهَا خَالِدُونَ

«Those who consume interest cannot stand (on the Day of Resurrection) except as one stands whom Satan is beating into insanity. They say, «Trade is (just) like interest». However, Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns to (dealing in interest or usury), those are the companions of the Fire, they will abide eternally therein».

The usury eaters claim that buying and selling are the same as usury because they cannot discriminate between what is legal and what is illegal, what is good and what is destructive, and what is permitted by Allah Swt. and what is banned. This is clear from this verse. In addition, Allah Swt. affirms that condemns usury and defends trading. God does not give a reason. Because usury eaters are already aware of, have firsthand experience with, and have felt the effects of usury, Allah Swt. does not explain it in a simple way for them to comprehend.

It is clear from this declaration that Allah Swt. is seemingly comparing purchasing and selling with usury. Let people know about, consider, and comprehend the comparison. In buying and selling, the seller and the buyer carry out balanced exchanges and replacements, both parties enjoy benefits and advantages, and there is also the potential to make a decent profit commensurate with their efforts. There is no balance replacement or exchange in usury. There is just one type of forced borrowing, known as indirect extortion, where the party with the commodities takes advantage of the party in need.

As the verse above continues, Allah Swt. invites usury eaters with a gentle invitation that immediately seeps into their consciences after Allah Swt. has explained the consequences experienced by usury eaters, the words spoken by usury eaters, the thoughts that are affecting the usury eaters' condition, and God's confirmation

of the law of buying and selling and usury. Allah Swt. refers to the prohibition against usury as teaching, which means that it is intended to benefit people themselves, ensuring that they live happily both now and in the hereafter, surrounded by love and compassion for one another, and lead peaceful, contented lives.

Whoever realizes the ban of Allah Swt. and abides by it, let him immediately cease the practice of usury. Allah Swt. does not punish them for their actions prior to the revelation of this verse. When this passage was revealed, they were not required to pay interest. They may withdraw only the loan's principal amount, not the interest pre-agreed upon. This paragraph includes a lesson that can serve as the foundation for creating laws, regulations, or laws (a law, regulation, or rule that will be passed may not apply retrospectively if it causes harm to the parties that the law will affect or burden).

On the other side, if a rule, law, or regulation helps the people it is placed or burdened on, it may be applied retroactively. The conclusion of this verse affirms that individuals who have engaged in usury and those who have stopped doing it but resumed it after this prohibition was made known are among the dwellers of hell and will remain there for all eternity.

Some scholars hold that the usury eater committed the big sin of prioritizing self-interest and acting in ways that were not in Allah Swt. best interests because they had a desire for riches embedded in their hearts. Such a person cannot develop true faith in their soul, which is faith-based on emotions, recognition, and submission to God. If such a usurer continues to claim to believe in Allah Swt., his religion is a fragile veneer that does not extend to the depths of his heart.

It is legal to practice the law of purchasing and selling shares. This claim is reinforced by *fatwa* issued by the Financial Services Authority and the National Sharia Council-Indonesian Ulema Council (DSN-MUI) addressing stocks (OJK). As stated in the Fatwa DSN-MUI No. 135/2020 concerning Shares and the POJK No. 35/2017 concerning Criteria and Issuance of Sharia Securities List, the permitted shares are, of course, those that have passed selection and meet the requirements for sharia shares. These standards consist of, *first*, considering commercial operations. Issuers refrain from

engaging in any business or activities prohibited by sharia law, including *maisir* (gambling) and games that fall under this category, usury, and the purchase and sale of *gharar* (containing elements of uncertainty). Based on the DSN-MUI regulations, MUI's issuer does not create, distribute, trade, or offer items or services that are against sharia law. *Second*, following the financial ratio. Issuers must meet the following financial ratios in addition to being viewed from the perspective of their business operations. The total amount of interest-bearing debt does not exceed 45% of total assets and the combined interest and other non-*halal* revenue does not exceed 10% of the overall operating income.

If the issuer satisfies these requirements, the shares are categorized as sharia shares, and investors may naturally acquire and sell sharia shares. The following arguments from the Qur'an surah An-Nisa' verse 29 and *fiqh* guidelines support the legality of purchasing and selling sharia shares:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

"O you who have believed, do not consume one another's wealth unjustly but only (in lawful) business by mutual consent. Furthermore, do not kill yourselves (or one another). Indeed, Allah is to you ever Merciful".

In this verse, Allah Swt. forbids the followers from acquiring and using their riches in a manner that is not permitted by the sharia (*bathil*), such as through gambling, business dealings that involve usury or fraud, or other prohibited activities. In addition, Muslims are required to avoid harming objects, such as sharia shares and acquire property in a way justified by *syara*.

Then, *fiqh* norms indicate, «all forms of *muamalah* are allowed until there is evidence to the contrary». The rule states that *murabahah* (buying and selling), *ijarah* (lease), *rahn* (pawning), *mudharabah* or *musyarakah* (cooperation), *wakalah* (representation), and other transactions are acceptable under Islamic law. *Muamalah* activities are permitted if no evidence expressly prohibits them. The presence of sharia shares is highly beneficial since it protects investors who wish to

invest and own shares from usury. Sharia shares are an alternative to investments based on usury, as is the case with traditional stock practices.

The most fundamental distinction between sharia and conventional shares is that conventional shares allow corporations to issue shares by registering without any constraints, such as the requirements related to sharia share laws. Thus, they do not have to comply with sharia principles. despite a fatwa given by MUI, there must be rules permitted by the financial services regulator (OJK). Therefore, investors who wish to invest in stocks free of usury will feel more at ease when investing in Islamic equities.

In addition to the benefits listed above, there are additional benefits, including that stock investors indirectly contribute to the nation's economic growth and the benefits of a rather substantial return. Indirectly, stock investors aid enterprises in need of cash to build their businesses, which, once developed, will require more people for optimal operation, reducing Indonesia's unemployment rate. This is consistent with the objective of Islamic law, which is to achieve benefit.

Overview of Islamic law on stock investment with the scalping trading method based on sharia principles, as stated in the Fatwa DSN-MUI regarding the Islamic Capital Market. This transaction utilizes the Islamically permitted Sharia Online Trading System (SOTS). Because this transaction is conducted in cash, margin trading, and short selling are inapplicable.³⁴ In addition, the product is included in the sharia class, which is determined by the shareholder company's income source and debt value.³⁵ Thus, scalpers must conduct transactions following the Fatwa DSN-MUI, which prohibits usury.

The following review is about conjecture. A contract containing an element of uncertainty, such as quality or quantity, is speculative.³⁶

³⁴Rafik Fakhry Omar and Eleri Jones, "Critical Evaluation of the Compliance of Online Islamic FOREX Trading with Islamic Principles," *International Journal of Islamic and Middle Eastern Finance and Management* 8, no. 1 (2015): 77, <https://doi.org/10.1108/IMEFM-06-2014-0059>.

³⁵Rahma Tri Benita, Siti Damayanti, and Irwan Adi Ekaputra, "Information Distribution and Informed Trading in Mixed and Islamic Capital Markets," *International Journal of Business and Society* 21, no. 3 (2020): 1343, <https://doi.org/10.33736/ijbs.3353.2020>.

³⁶Ahmet Suayb Gundogdu, "Islamic Electronic Trading Platform on Organized Exchange," *Borsa Istanbul Review* 16, no. 4 (2016): 253, <https://doi.org/10.1016/j>.

The capital market shares are then traded on the Indonesia Stock Exchange (IDX). The company's shares are transparent because the public can access all relevant information at www.idx.co.id. Because the scalper made an offer or bid, the contract in the example of the ANTM stock transaction using the SOTS method has supported the parties intent. The capital market is protected from *gharar* by its information and systems. As speculation, however, it is prohibited for investors and traders to be unaware of how and where to obtain information and systems, as well as the factors that influence decisions in stock transactions.³⁷

The final evaluation is a gamble. This transaction is based on a random or lucky draw based on market news, recommendations, and information obtained without conducting research and study.³⁸ *Maisir*'s action is a continuation of the speculation's legal proceeding. Scalpers' transactions are excluded because they do not involve speculation.

Conclusion

This research shows that a review of Islamic law on stock investments using scalping trading has two stock strategies, trading and investing. As one of the available trading strategies, scalping trading is a prevalent method. This method is a short-term trading strategy designed to generate profits quickly. The review of Islamic law on stock investment with the scalping trading method consists of two rules based on the Fatwa DSN-MUI. It prohibits if the traded shares are not sharia shares, transactions are conducted based on the recommendations of others, and the system used is not a Sharia Online Trading System (SOTS). Therefore, a scalper may analyze

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³⁷Distie Saraswati and Syamsul Hidayat, "Implementasi Hybrid Contract Pada Take Over Pembiayaan Hunian Syariah Dari Bank Konvensional Ke Bank Syariah Dalam Perspektif Hukum Islam," *Jurnal Jurisprudence* 7, no. 1 (2017): 83, <https://doi.org/10.23917/jurisprudence.v7i1.4350>.

³⁸Adam Mohamed Rahim and Mansur Masih, "Portfolio Diversification Benefits of Islamic Investors with Their Major Trading Partners: Evidence from Malaysia Based on MGARCH-DCC and Wavelet Approaches," *Economic Modelling* 54, no. 2 (2016): 433, <https://doi.org/10.1016/j.econmod.2015.12.033>.

before engaging in stock transactions. The Sharia Online Trading System (SOTS) is used for trading sharia shares. This research suggests that the general public should invest in stocks using the scalping trading method and a system that complies with the Fatwa DSN-MUI, specifically the Sharia Online Trading System (SOTS). Then, to avoid elements of chance, lottery, or gambling, we should conduct an analysis with the method we have mastered before making stock transactions. In addition, the researcher recommends selecting stocks that are included in sharia shares to avoid engaging in prohibited Islamic law practices.

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Rethinking the Paradigm of Islamic Banking: Integrated of Commercial and Social Oriented

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Abstract

The recent appraisal of Islamic Banking and Finance (IBF) development has focused on the interest based banking system. Banks role and function have been retained to create sharia compliant instruments to replace conventional banks interest based instruments. Another issue is the objective of Islamic banking to contribute to social obligation despite profit maximization. In this context, IBF institutions have been involved in debt financing oriented transactions such as murabahah instead of musyarakah and mudharabah, as they are more profitable. This research attempts to clarify Islamic banking's objective derived from Muslim scholars views and how it complies with sharia. Thus, it is necessary to rethink the paradigm of IBF that is in line with pure Islamic economics, whereas conventional banking has been shifting toward social banking. The methodology used is qualitative-descriptive-literature. The result is, several applied integrated models in IBFs, such as Social Islamic Bank Limited (SIBL), have offered Mudaraba Waqf Cash Deposit Account (MWCD). Then

sadaqa house is provided by Bank Islam Malaysia Berhad (BIMB), an integrated institution model in which Islamic banking can cooperate with other Islamic social finance such as waqf institutions in Indonesia. Finally, the research finding argues that Islamic banking's paradigm is to promote the ummah's maslahat by integrating commercial and social aspects into its operational and objective.

Keywords: *Islamic Banking; Profit; Social Oriented*

Abstrak

Penilaian perkembangan Islamic Banking and Finance (IBF) baru-baru ini berfokus pada sistem perbankan berbasis bunga. Peran dan fungsi bank tetap dipertahankan untuk menciptakan instrumen yang sesuai dengan syariah untuk menggantikan instrumen berbasis bunga bank konvensional. Isu lain adalah tujuan perbankan syariah untuk berkontribusi pada kewajiban sosial selain juga keuntungan maksimal. Dalam konteks ini, lembaga IBF telah terlibat dalam transaksi yang berorientasi pembiayaan hutang seperti murabahah daripada musyarakah dan mudharabah, karena lebih menguntungkan. Penelitian ini mencoba mengklarifikasi tujuan perbankan syariah yang berasal dari pandangan cendekiawan Muslim dan bagaimana kepatuhannya terhadap syariah. Dengan demikian, perlu dipikirkan kembali paradigma IBF yang sejalan dengan ekonomi Islam murni, padahal perbankan konvensional sudah bergeser ke arah social banking. Metodologi yang digunakan adalah kualitatif-deskriptif-literatur. Hasilnya, beberapa model terintegrasi yang diterapkan di IBF, seperti Social Islamic Bank Limited (SIBL), telah menawarkan Mudharabah Waqf Cash Deposit Account (MWCDCA). Kemudian, rumah sedekah disediakan oleh Bank Islam Malaysia Berhad (BIMB), sebuah model lembaga terpadu dimana perbankan syariah dapat bekerja sama dengan keuangan sosial Islam lainnya seperti lembaga wakaf di Indonesia. Akhirnya, temuan penelitian ini berpendapat bahwa paradigma perbankan syariah adalah mempromosikan kemaslahatan umat dengan mengintegrasikan aspek komersial dan sosial ke dalam operasional dan tujuannya.

Kata Kunci: *Bank Syariah; Keuntungan; Orientasi Sosial*

Introduction

A new paradigm of banking has been shifting globally to a new era. The shift toward social banking is related to the financial crisis. It was among the most successful financial institutions worldwide during the economic crisis of 2007-2010 and has emerged strengthened by it.¹ Many customers were disappointed with mainstream finance

¹Roland Benedikter, *Social Banking and Social Finance* (New York: Springer,

and started to shift remarkable amounts of money to social banks in search of a better perspective of transparency and reliability, a down to earth approach to investment, a focus on the “*real economy*” with practical local ties (instead of abstract international speculation), a new “*financial humanism*” in the form of heightened responsibility for sustainable development both in the social and in the environmental spheres (instead of maximum short-term gains at any cost, which proved to be socially and environmentally unhealthy).² The biggest social banks are Gemeinschaft fur Leihen und Schenken (GLS) Bank, its name means “*community for lending and donating*”,³ the Netherlands based Triodos Bank,⁴ the Italian Banca Etica,⁵ the Swiss ABS Bank,⁶ and the Danish Merkur Bank.⁷

Islamic Banking and Finance (IBF) have become one of Islamic economics’s main visible features in the latter part of the twentieth century. Its development has faced many criticisms. One major criticism of Islamic banking has been modeled after the interest based (primarily commercial) banking system. Hence, banks role and function have primarily been retained while the focus has been on creating sharia compliant instruments (seen by the critics as more expensive duplicates) to replace the interest based instruments of conventional banks.⁸

Another issue is Islamic banking’s objective to contribute to social obligation despite profit maximization. This is so since in the harsh environment of the global economy, Islamic banks must compete with conventional banks that usually focus exclusively on profit

2011), 1.

²*Ibid.*, 2.

³GLS Bank, “About GLS Bank,” GLS Bank, 2022, <https://www.gls.de/privatkunden/>.

⁴Triodos Bank, “About Triodos Bank,” Triodos Bank, 2022, <https://www.triodos.com/en/>.

⁵Banca Etica, “About Banca Etica,” Banca Etica, 2022, <https://www.bancaetica.it/>.

⁶Alternative Bank Switzerland, “About ABS Bank,” Alternative Bank Switzerland, 2022, <https://www.abs.ch/en>.

⁷Merkur Andelskasse, “About Merkur Andelskasse,” Merkur Andelskasse, 2022, <https://merkur.dk/privat/>.

⁸Mohamed Aslam Haneef, “Islamic Banking and Finance in the 21st Century: Selected Issues in Human Capital Development,” *ICR Journal* 1, no. 2 (2009): 292, <https://doi.org/10.52282/icr.v1i2.748>.

maximization.⁹ It can be seen that IBF institutions prefer involvement in transactions that are debt financing oriented such as *murabahah*, instead of *musyarakah* and *mudharabah*, as they are more profitable.

Almost all Islamic financial institutions offer the same basic products (66 percent of *murabahah* and *ijarah*).¹⁰ The prevailing general sentiment is that, so far, Islamic banking has de facto failed to meet the social and ethical goals claimed by sharia.¹¹ The reality today shows that IBF, as the institution, opposes the aspirations and the paradigm of Islamic economics. A problem with Islamic banking activity is that it often does not embrace the spirit of sharia, instead, it looks at how to make the instruments compliant with it.¹² It can be argued that Islamic banking as *wasilah* (medium) in achieving financial preservation of human needs further study related to the philosophical underpinning of the sharia paradigm and its practical realm.

Consequently, the research is few, tracing the ideas of the sharia paradigm for Islamic banking as a foundation in the practical level. Moreover, studies on the integration model of commercial and profit have been done by Ascarya,¹³ Arif Widodo,¹⁴ Ratih Winarsih et.

⁹Mehmet Asutay, "Conceptualisation of the Second Best Solution in Overcoming the Social Failure of Islamic Banking and Finance: Examining the Overpowering of Homoislamicus by Homoeconomicus," *International Journal of Economics, Management, and Accounting* 15, no. 2 (2013): 178, <https://journals.iium.edu.my/enmjjournal/index.php/enmj/article/view/134>.

¹⁰Fayaz Ahmad Lone, *Islamic Banks and Financial Institutions: A Study of Their Objectives and Achievements* (New York: Palgrave Macmillan, 2016), 61.

¹¹Habib Ahmed, "Defining Ethics in Islamic Finance: Looking Beyond Legality," in *8th International Conference on Islamic Economics and Finance* (Doha: Qatar Foundation's Faculty of Islamic Studies (QFIS) & IRTI-IDB, 2011), 1, <http://www.iefpedia.com/english/?p=6434>.

¹²Walid Mansour, Khoutem Ben Jedidia, and Jihed Majdoub, "How Ethical Is Islamic Banking in the Light of the Objectives of Islamic Law?," *Journal of Religious Ethics* 43, no. 1 (2015): 64, <https://doi.org/10.1111/jore.12086>.

¹³Ascarya, "Baitul Maal Wat Tamwil (BMT): An Integrated Islamic Social and Commercial Financial Institution in Indonesia," in *Case Studies in Islamic Social Finance 2018* (Jeddah: ISRA, Thomson Reuters, and IRTI, 2018), 104, https://www.researchgate.net/publication/320827162_BAITUL_MAAL_WAT_TAMWIL_BMT_AN_INTEGRATED_ISLAMIC_SOCIAL_AND_COMMERCIAL_FINANCIAL_INSTITUTION_IN_INDONESIA.

¹⁴Arif Widodo, "The Role of Integrated Islamic Commercial and Social Finance in Reducing Income Inequality in Indonesia," *Journal of Islamic Monetary Economics and Finance* 5, no. 2 (2019): 263, <https://doi.org/10.21098/jimf.v5i2.1063>.

al.,¹⁵ and Nun Harrieti et. al.¹⁶ All of these papers tend to deal with the practical integration between commercial and social finance. Therefore, the research purpose is to deepen the philosophy of Islamic banking by attempting to rethink the paradigm of Islamic banking from the sharia perspective based on the integration model of commercial and social orientation.

Methodology

The research method used is a qualitative-descriptive method with a library research approach.^{17 18} Library research is a method of finding references relevant to the problems encountered, describes theoretical analysis, scientific studies, references, and literature related to this research.¹⁹ Based on this method, the data collection used the documentation method.²⁰ The analysis process is carried out continuously from start to finish.²¹ The analysis process in question includes data interpretation, language translation, word editing,

¹⁵Ratih Winarsih, Atika Rukminastiti Masrifah, and Khoirul Umam, "The Integration of Islamic Commercial and Social Economy Through Productive Waqf to Promote Pesantren Welfare," *Journal of Islamic Monetary Economics and Finance* 5, no. 2 (2019): 321–40, <https://doi.org/10.21098/jimf.v5i2.1065>.

¹⁶Nun Harrieti et al., "Integration of Commercial Finance and Social Finance: Challenges of Sharia Banking in Indonesia," *Journal of Legal, Ethical, and Regulatory* 23, no. 2 (2020): 1, <https://www.abacademies.org/articles/integration-of-commercial-finance-and-social-finance-challenges-of-sharia-banking-in-indonesia-9135.html>.

¹⁷Devid Frastiawan Amir Sup, "Wakaf Kontemporer Di Indonesia Dalam Perspektif Hukum Dan Fatwa," *Jurnal Hukum Ekonomi Syariah* 4, no. 2 (2021): 239, <https://doi.org/10.30595/jhes.v4i2.11093>.

¹⁸Fadhila Sukur Indra et al., "The Application of Al-Wakalah Bil Ujrah Contract on Unit Link Insurance According to DSN-MUI Fatwa No. 52 2006: A Case Study of PRULink Syariah Generasi Baru," *Journal of Islamic Economics Lariba* 8, no. 1 (2022): 244, <https://doi.org/10.20885/jielariba.vol8.iss1.art15>.

¹⁹Mohammad Ghozali, Norazzah Binti Kamri, and M. Ali Zi Khafid, "The Merger of Indonesian Islamic Banks: Impact on the Islamic Economy Development," *Al-Iktisab: Journal of Islamic Economic Law* 6, no. 1 (2022): 28, <https://doi.org/10.21111/al-iktisab.v6i1.7551>.

²⁰Devid Frastiawan Amir Sup, "Cessie Dalam Tinjauan Hukum Islam," *Jurisprudensi: Jurnal Ilmu Syariah, Perundangan-Undangan Dan Ekonomi Islam* 11, no. 1 (2019): 51, <https://doi.org/10.32505/jurisprudensi.v11i1.995>.

²¹Devid Frastiawan Amir Sup, "Government Efforts to Prevent Potential Violence Against Women During the Covid-19 Pandemic in Indonesia," *Syariah: Jurnal Hukum Dan Pemikiran* 21, no. 1 (2021): 106, <https://doi.org/10.18592/sjhp.v21i2.4146>.

and compiling them in a logical systematic way, so that the resulting description can become a complete concept building that is easy to understand.^{22 23}

Results and Discussion

In the early idea of an interest free bank, Islamic banks are conceived, in the first instance, as financial intermediaries mobilizing savings from the public based on *mudharabah* and advancing capital to entrepreneurs on the same basis.^{24 25} Historically, it was practiced in the early Islamic period, and most caravan trades were financed by *mudharabah* and *suftaja* (money transfer).²⁶

Islamic banking can be defined as a financial institution whose statutes, rules, and procedures expressly state its commitment to the principle of sharia and the banning of the receipt and payment of interest on any of its operations.²⁷ According to the Islamic Banking Act 1983, Malaysia, an Islamic bank is a company that carries on Islamic banking business. Islamic banking business means banking business whose aims and operations do not involve any element which is not approved by the religion of Islam.²⁸ In Indonesian, UU No. 21/2008, an Islamic bank is a bank that carries out business activities based on sharia principles, or principles of the Islamic law that are regulated in the *fatwa* of the Indonesian Ulama Council, such as the principles of justice and balance (*'adl wa tawazun*), benefit (*maslahah*), universalism (*alamyah*), and do not contain *gharar*, *maysir*,

²²Devid Frastiawan Amir Sup, "The State's Efforts in Preserving the Environment Through Regulation," *Sustainability: Theory, Practice and Policy* 1, no. 2 (2021): 204.

²³Devid Frastiawan Amir Sup et al., "Dinamika Regulasi Sertifikasi Halal Di Indonesia," *JESI (Jurnal Ekonomi Syariah Indonesia)* 10, no. 1 (2020): 37, [https://doi.org/10.21927/jesi.2020.10\(1\).36-44](https://doi.org/10.21927/jesi.2020.10(1).36-44).

²⁴Mohammad Nejatullah Siddiqi, *Banking Without Interest* (Leicester: Islamic Foundation, 1983), 77.

²⁵Munawar Iqbal and Philip Molyneux, *Thirty Years of Islamic Banking: History, Performance, and Prospects* (London: Springer, 2016), 124.

²⁶*Ibid.*

²⁷M. Ali and A. A. Sarkar, "Islamic Banking: Principles and Operational Methodology," in *Thoughts on Economics* (Dhaka: Islamic Economics Research Bureau, 1995), 20–25.

²⁸Malaysian Legislation, "Islamic Banking Act 1983," CommonLII, 2022, http://www.commonlii.org/my/legis/consol_act/iba1983131/.

riba, *zalim*, and *haram* objects. It can be said that an Islamic bank is a financial institution whose principles, operations, and objectives are based on sharia.^{29 30}

Muslim economists have shown their interest in proposing some alternative Islamic banking models. Two groups propose the model of Islamic banking. Halim^{31 32} leads the first groups. Furthermore, he is supported by Tag El-Din.³³ Halim, eloquently described that the Islamic economics system falls into three sectors, the *siasi*, the *tijari*, and the *ijtimai* sectors.³⁴ In Halim's model, Islamic banking and finance fall under the *tijari* sector, and Halim absolves the *tijari* sector, including Islamic banks, of much social responsibility and places the responsibility mainly on the shoulders of the *ijtimai* sector.³⁵ Halim's model argues that since IFIs are part of the commercial sector of the economy, they should be responsible only for economic and financial activities. All morally and socially concerned commercial activities are expected to be assigned to the third non-profitable sector. However, Tag El-Din says that the socio economic needs of society should be left to the "social sector" such as waqf and other charitable institutions.³⁶

The other group led by Siddiqi,³⁷ Lewis and Algaoud,³⁸ Haron,³⁹

²⁹Indonesia, "Undang-Undang Republik Indonesia Nomor 21 Tahun 2008 Tentang Perbankan Syariah," Otoritas Jasa Keuangan, 2008, https://www.ojk.go.id/waspada-investasi/id/regulasi/Documents/UU_No_21_Tahun_2008_Perbankan_Syariah.pdf.

³⁰Devid Frastiawan Amir Sup, *Pengantar Perbankan Syariah Di Indonesia (Sejarah, Perkembangan, Regulasi, Dan Fatwa)* (Ponorogo: UNIDA Gontor Press, 2022), 32.

³¹Abdul Ismail Halim, *Islamic Banking in Malaysia: Some Issues, Problems, and Prospects* (Kuala Lumpur: Banks Islam Malaysia Berhad, 1986).

³²Abdul Ismail Halim, "Bank Islam Malaysia Berhad: Principles and Operations," in *Introduction to Islamic Economics & Finance* (Kuala Lumpur: Cert Publications, 2008).

³³Seif Ibrahim Tag El-Din, "Incentivising an Ethical Economy," *The Muslim World Book Review* 23, no. 3 (2003): 5–17, <https://www.mwbr.org.uk/>.

³⁴Halim, "Bank Islam Malaysia Berhad: Principles and Operations," 11.

³⁵*Ibid.*

³⁶El-Din, "Incentivising an Ethical Economy," 18.

³⁷Siddiqi, *Banking Without Interest*.

³⁸Mervyn Keith Lewis and Latifa M. Algaoud, *Islamic Banking* (Cheltenham: Edward Elgar, 2001).

³⁹Sudin Haron, "The Framework and Concept of Islamic Interest-Free Banking," *Journal of Asian Business* 11, no. 1 (1995): 26–39, <https://malaycivilization.com.my/omeka/items/show/150793>.

Asutay,⁴⁰ and Dusuki & Abozaid,⁴¹ to name a few, takes the view that Islamic banks should embody the objectives as espoused by Islamic economics, namely: (1) Economic well-being within the framework of the moral norms of Islam; (2) Universal brotherhood and justice; (3) Equitable distribution of income; and (4) Freedom of the individual within the context of social welfare. To Asutay, it should be stated that social justice and economic development are the fundamental and foremost objectives of IBF.⁴² This is because the main epistemological source of these social objectives is derived from the *maqasid sharia*. Chapra's model suggests that the social role of all sorts of IFIs should be placed upon their objective of profit maximization in order to maintain socio economic justice and support and sustain economic development.⁴³ Thus, Islamic social finance can provide a "new identity based on substantive and ethical religious tenets".⁴⁴

Some practical study shows that Islamic banking should play a social role other than maximizing profit. In Malaysia, Dusuki & Abozaid reveals that the stakeholders regarding Islamic banking must not only focus on maximizing profit but also play a vital role in addressing socio economic factors such as contributing to the community's social welfare, promoting sustainable development projects, and alleviating poverty.⁴⁵ The development of Islamic banking in Indonesia, according to the public's perception, should have a greater social purpose than commercial purposes.

Islamic economics is considered by its practitioners to be ethical

⁴⁰Asutay, "Conceptualisation of the Second Best Solution in Overcoming the Social Failure of Islamic Banking and Finance: Examining the Overpowering of Homoislamicus by Homoeconomicus."

⁴¹Asyraf Wajdi Dusuki and Abdulazeem Abozaid, "A Critical Appraisal on the Challenges of Realizing Maqasid Al-Shariaah in Islamic Banking and Finance," *International Journal of Economics, Management, and Accounting* 15, no. 2 (2013): 143–65, <https://journals.iium.edu.my/enmjjournal/index.php/enmj/article/view/133>.

⁴²Asutay, "Conceptualisation of the Second Best Solution in Overcoming the Social Failure of Islamic Banking and Finance: Examining the Overpowering of Homoislamicus by Homoeconomicus," 189.

⁴³Lewis and Algaoud, *Islamic Banking*, 88.

⁴⁴Mahmoud A. El-Gamal, *Islamic Finance: Law, Economics, and Practice* (Cambridge: Cambridge University Press, 2006), 116.

⁴⁵Dusuki and Abozaid, "A Critical Appraisal on the Challenges of Realizing Maqasid Al-Shariaah in Islamic Banking and Finance," 146.

(*akhlaqi*), godly (*rabbani*), humane (*insani*), and balanced (*wasati*).⁴⁶ It is thus assumed that the objectives of Islamic economics are supposed to guide the objective of Islamic banking and finance.⁴⁷ The general objective of Islamic economics is known as *falah*, which means success here and the hereafter. Everyone, including politicians, socialists, and religious men, has to acquire earnings for survival. Hence, the concept of *falah* also correlates to the pursuit of economic affairs. One could be involved in economic endeavors for success in the hereafter.

There is a debate among Muslim scholars about whether Islamic banks should concentrate primarily on social or economic objectives. Some believe that social objectives are more important than economic objectives, whereas others think that economic objectives are more important than social objectives.⁴⁸ However, Lone classifies the objective of Islamic finance (including Islamic banking) into four categories that align with the objective of Islamic economics.⁴⁹

Firstly, Islamic objectives include all those necessary commands ordained in the Qur'an and *Sunnah* for the smooth conduct of the banking business. *Secondly*, the economic objectives of Islamic banks and financial institutions also have to try to maximize their profits but within the boundary of Islamic principles. *Thirdly*, social objectives are for the welfare and benefit of society in both the long and short run.

The International of Islamic banks (IAIB) explains in detail the need for social objectives in Islamic banking, "*The Islamic banking system involves a social implication which is necessarily connected with the Islamic order itself and represents a special characteristic that distinguishes Islamic bank from other banks based on other philosophies. In exercising all its banking and developmental activities, the Islamic bank takes into prime consideration the social implications that may be brought by any decision or action taken by the bank. Profitability, despite its importance and priority, is not, therefore, the sole criterion or the prime element in evaluating the*

⁴⁶Yusuf Qardhawi, *Norma Dan Etika Ekonomi Islam* (Jakarta: Gema Insani Press, 1997), 126.

⁴⁷M. O. Mohammad and S. Shahwan, "The Objective of Islamic Economic and Islamic Banking in Light of Maqasid Al-Shariah: A Critical Review," *Middle-East Journal of Scientific Research* 13, no. 13 (2013): 76, <https://doi.org/10.5829/idosi.mejsr.2013.13.1885>.

⁴⁸Lone, *Islamic Banks and Financial Institutions: A Study of Their Objectives and Achievements*, 62.

⁴⁹*Ibid.*

performance of Islamic banks since they have to match both the material and social objectives they would serve the interests of the community as a whole and help achieve their role in the sphere of social mutual guarantee. Social goals are understood to form an inseparable element of the Islamic banking system that cannot be dispensed with or neglected”.

Some countries have formalized the objective of Islamic banking that is in line with a social objective. For instance, the objective of Islamic banking in Indonesia is stated in Article 3 of UU No. 21/2008 concerning Islamic Banking, which reads: *“Islamic banking aims to support the implementation of national development in order to improve fairness, solidarity, and the distribution of welfare of the people”*.⁵⁰

Fourthly, the ethical objectives of Islamic finance are based on well defined principles of fairness, justice, and integrity. Mohammad and Shahwan add some operational objectives such as justice, self, harm elimination, and state participation based objectives.⁵¹

The word *“sharia”* is derived from the root Arabic which means *“to introduce”, “to enact”, and “to prescribe”*. The philosophical foundations of Islamic society represent that the economic agent is the Muslim man, not the economic man (*homoeconomicus*). The Muslim man’s purpose in life is to achieve *falah* by following the sharia in all walks of his life.⁵² The sharia describes how Muslims should behave in every aspect of life (*ibadah* and *muamalah*), from private matters between the individual and God to relationships with others in the family and the wider community. On the other side, a Muslim man is a follower of the sharia.

It is urgent to know its economic agent’s actual nature within the sharia paradigm. Islam regards man as a perfect being (*insan kamil*) that consists of spiritual/metaphysics, physical, and social elements in the life explained in the concept of *al-insan*, *al-basar*, and *al-annas*. All elements make man perfect compared with other creatures of Allah when manifested in their lives. Spiritual needs are

⁵⁰Indonesia, “Undang-Undang Republik Indonesia Nomor 21 Tahun 2008 Tentang Perbankan Syariah.”

⁵¹Mohammad and Shahwan, “The Objective of Islamic Economic and Islamic Banking in Light of Maqasid Al-Shariah: A Critical Review,” 77.

⁵²Widodo, “The Role of Integrated Islamic Commercial and Social Finance in Reducing Income Inequality in Indonesia,” 264.

fulfilled through belief or faith in Allah, and physical needs are met by making the best use of all resources created by Allah for human beings. As a social being, man cannot be isolated himself living on the earth, he/she should interact with one another to fulfill their needs through reciprocal transactions (*al-mu'amalah*) like trading and manufacturing (*sina'at*).

Spiritual needs are essential to humans and are related to the rules and ethical values Allah gives for guiding human life, getting a benefit here, and in the hereafter. For instance, a man needs food and drinks to fulfill his basic need, but his spiritual needs ask him to seek and eat the foods and drinks in *halal* ways. By then, the spiritual needs follow sharia rules. The rules of sharia are thus classified into the two main categories of *'ibadah* (devotional matters) and *mu'amalah* (civil transactions). The former comprises rules regulating man's relationship with his creator, whereas the latter is concerned with relations between man and his fellow human beings.

Indeed, one of the behavioral characteristics specific to Islamic economics is that economic agents are motivated by self interest and personal gain within the framework of social objectives and care for others.⁵³ The perfect man within the element of *insan* and *annas* must believe that his purpose in life is to achieve *falaha* by being successful in his role as the vicegerent of God on earth by organizing the resources in a balanced way between commercial and social activities to fulfill his *bashariyyah* (physical) needs which are according to the consent of Allah.

Thus, the Muslim man's behavior is the basis of the microfoundation that logically leads to the sharia.⁵⁴ Therefore, *mu'amalah al-maliyah* (financial transaction) is divided into two, namely commercial and social activities, as mentioned in the Qur-an surah Al-Baqarah verse 267, "O you who have believed, spend from the good things which you have earned and from that which We have produced for you from the earth ...". There are two terms that man should do in his economic activities, fulfilling the needs through *al-kasb* (earning)

⁵³Siddiqi, *Banking Without Interest*, 78.

⁵⁴Widodo, "The Role of Integrated Islamic Commercial and Social Finance in Reducing Income Inequality in Indonesia," 265.

and *infaq* (spending). Syaibani and Ibn Sina say that spending could cover oneself and the other self through *zakah*, *shadaqah*, and *waqf*.⁵⁵

Indeed, sharia provided the rules of human related to their nature as economic, social, and spiritual beings. Therefore, in the history of Islam, the prophet Muhammad Saw. provides commercial institutions such as markets and social institutions such as *zakat* and *waqf* in the Madinah for Muslims. Prophet Muhammad Saw. and his companions have taught us that our daily commercial and social dealings have never been separated or dichotomized.⁵⁶

Utsman bin 'Affan ra. narrates, the first example, the Prophet said, "*Who will buy the well of Rumah (a well-known well in Al-Madinah) (and endow it for the good of Muslims) so that he may use it as the other Muslims do without any privilege?*" (Utsman bin 'Affan ra. bought it) (*Shahih Bukhari hadis* in the book of watering). As known that Utsman bin 'Affan is one of the richest companions, but he is also one of the most benevolent companions in the time of prophet Muhammad Saw. The second example is narrated Abu Mas'ud Al-Ansari. Whenever Allah's Messenger ordered us to give in charity, we would go to the market and work as porters to earn a *mudd* (two hand-fulls) (of foodstuff), but now some of us have one hundred thousand *dirham* or *dinar*. (The sub-narrator) Shaqiq said, "*I think Abu Mas'ud Al-Ansari meant himself by saying (some of us)*" (*Shahih Bukhari hadis* number 2273).

By the explanations, it can be summarized that human natures have economic and social motives and purposes. Therefore, Islam as a *din* guides their natures in sharia and its objectives (*maqasid*) to achieve *falah* (successful life here and the hereafter). Sharia regulates the commandment of seeking and spending wealth, and its instruments and institutions are provided to give a benefit (*maslahah*) to the *ummah*. Therefore, the development of the Islamic economic system should be based on the sharia paradigm. Within the sharia paradigm, the means (*wasail*) like instruments and institutions are needed to achieve

⁵⁵Nurizal Ismail and Muhammad Riza, "A Proposed Model of Wealth Management in Indonesian Islamic Banking," *Islamic Economics Journal* 2, no. 2 (2014): 220, <https://garuda.kemdikbud.go.id/documents/detail/320130>.

⁵⁶Ascarya, "Baitul Maal Wat Tamwil (BMT): An Integrated Islamic Social and Commercial Financial Institution in Indonesia," 105.

the *falah* that not only supports the man in his material but also in the social aspect of life within the sharia objectives.

By referring to the nature of humans in Islam and the objectives of Islamic economics, Islamic banking has to provide commercial and social finance services and products to the customers. This research proposes several models that can be applied in as follows.

First, Islamic bank and social-oriented products. Some Islamic banks have been developed as a banking product based on social objectives by offering deposits based on cash waqf. For instance, Social Islamic Bank in Bangladesh, Islamic Bank Bangladesh, EXIM Bank, Bank Asia, Shahjalal Islami Bank, Al-Arafah Islami Bank, Prime Bank (all in Bangladesh), and Bank Islam in Malaysia. All these are examples of indirect cash waqf models.

In the case of Social Islami Bank Limited (SIBL), *Mudharabah* Waqf Cash Deposit Account (MWCD) has been introduced for social consisting of 32 purposes under four significant fields, family rehabilitation, education & culture, health & sanitation, social utility, and others are considered as general guidelines for distribution of profit of cash waqf A/Cs. In the case where only fields for distribution of profit are mentioned without specifying the name of the beneficiary, whether individual or institution, those cash waqf will be treated as general cash waqf and the profit of those A/Cs will be spent for the welfare of humankind in the field of family rehabilitation, education & culture, health & sanitation, social utility, and others.⁵⁷

The MWCD is created perpetually where cash deposit is received as endowment on *mudharabah* principle with account title given by the waqif. By opening the account, someone can get an opportunity to do welfare to humankind through *shadaqah jariyah*. SIBL urges all religious and affluent persons of the society to come forward to mobilize cash waqf deposit so that the profit may be utilized for the well-being of humankind. Moreover, the *waqif* or the bank cannot withdraw the principal deposit from the *mudharabah* account principal. Deposit withdrawal is restricted. However, the *waqif* can transfer the account or nominate another bank to manage

⁵⁷SIBL, "Social Islami Bank Limited," SIBL, 2022, <https://www.siblbld.com/>.

the cash waqf fund without compromising sharia norms.⁵⁸

Halim proposes another model called Sadaqa Houses.⁵⁹ The *shadaqah* from the donor in the form of *shadaqah*, waqf, and *hibah* is put in a trust account that will be allocated into the basket of profitable Islamic investments such as investment account, *sukuk*, etc. The profits from the investment will be channeled to *shadaqah*, and the beneficiary can be for health, education, or other purposes. Then the idea of Sadaqa House was proved by Bank Islam Malaysia Berhad (BIMB) to serve the *ummah* with the establishment of Sadaqah House. The product is divided into perpetual, general, and direct funds.⁶⁰

The first category of the fund will be invested or placed in a sharia-compliant financial instrument, only profits or returns from the investment will be channeled to charitable projects. The second fund category denotes that the donors do not specify the charitable project, and the fund distribution is discretionary of Bank Islam. The last category of fund, which the fund will be directly disbursed and utilized for the specific charitable project chosen by donors.⁶¹

There are similarities and differences between the two cases of the product offered by SIBL and BIMB. The similarities are an original product created by the Islamic bank, and the purpose of the product is to benefit *ummah*. The difference is that the donor in MWCD has to open the account, while Sadaqah House Fund (SHF) does not open an account. Another difference is that the fund management of SIBL is only through waqf, but SHF can be through *shadaqah*, waqf, and *hibah*.

Second, integrated institution model, Islamic banking and other social finance institutions. This model offers an integrated model of two institutions between the Islamic bank and Islamic social finance institutions, such as *zakat*, waqf, *shadaqah*, and *infaq*. In Malaysia, by using waqf as an instrument, Islamic banks have jointly collaborated with waqf agencies/bodies, mainly to alleviate poverty and to support more equitable redistribution of wealth such

⁵⁸*Ibid.*

⁵⁹Bank Islam, "Sadaqa House Bank Islam," Bank Islam, 2022, <https://www.bankislam.com/corporate-info/social-finance-bank-islam/sadaqa-house-bank-islam/>.

⁶⁰Abdul Halim Ismail, "The Royal Award for Islamic Finance 2014," Bank Islam, 2014, <https://www.bankislam.com/the-royal-award-for-islamic-finance-2014/>.

⁶¹*Ibid.*

as Perbadanan Waqf Selangor Berhad (PWS) and Bank Muamalat Malaysia Berhad (BMMB) that is set as Waqf Selangor Muamalat.⁶² The waqf funds were channeled to the allocated waqf projects to help needy beneficiaries for educational and health benefits, etc.

Maybank Islamic Berhad collaborates with the Federal Territory of Malaysia Islamic Council (MAIWP) to set up an RM 20m Waqf Seed Fund, where the bank will provide capital to the funds to be invested into various investment portfolios while MAIWP acts as its trustee.⁶³ Moreover, profits, or capital yield, from the investment portfolio will be used to fund programs related to the development of educational and healthcare infrastructures, as well as to develop young entrepreneurs.⁶⁴

Another initiative is by Bank Islam Malaysia Berhad (BIMB), and University College Insaniah (KUIN) has signed a Memorandum of Understanding (MoU) whereby both parties will collaborate to realize the “*Insaniah Waqf Fund*” project.⁶⁵ The project’s purpose is to develop a mosque in KUIN in Kuala Ketil, Kedah. The trustee for the project is Kedah Islamic Council (MAIK).

In Indonesia, Islamic banks assigned as LKS-PWU by the Minister of Religious Affairs through *Badan Wakaf Indonesia* (BWI) can cooperate and collaborate with *nadzir* for fundraising waqf. The role of LKS is very strategic, especially in developing cash waqf in Indonesia. One of these strategies is related to the legal form that mentioned Islamic banks could be appointed directly by the Minister of Religion as an authorized institution to collect a cash waqf. This is stated in Article 28 of UU No. 41/2004 concerning Waqf which reads, “*Waqif can endow a movable object in the form of money through Islamic financial institutions appointed by the minister*”.⁶⁶

⁶²MIFC, “Malaysia International Islamic Finance Centre,” Bank Negara Malaysia, 2022, <https://www.mifc.com/>.

⁶³NST, “Maybank Islamic Announces RM20m Waqf Fund,” New Straits Times, 2014, <https://www.nst.com.my/news/2015/09/maybank-islamic-announces-rm20m-waqf-fund>.

⁶⁴*Ibid.*

⁶⁵Bank Negara Malaysia, “Insaniah Waqf Fund,” Central Bank of Malaysia, 2022, <https://www.mifc.com/index.php?ch=28&pg=72&ac=130&bb=uploadpdf>.

⁶⁶Indonesia, “Undang-Undang Nomor 41 Tahun 2004 Tentang Wakaf,” Badan Wakaf Indonesia, 2004, <https://www.bwi.go.id/3629/2007/09/17/undang-undang-no-41->

Third, model of Islamic wealth management. Islamic wealth management is a management strategy whereby a person uses financial or non-financial instruments to manage his wealth Islamically.⁶⁷ Islamic Wealth Management (IWM) is a new product offered by Islamic banking in more than a decade. The products offered by IWM include investment, Bancatakaful, and wealth distribution, consisting of *waqf*, *hibah*, *wassiyah*, *faraidh*, and *zakah*. It can be said, IWM is a holistic product offered by Islamic banking to customers in commercial and social aspects.

In Southeast Asian countries, Malaysia and Singapore are trying to become a global hub of Islamic wealth management. Malaysia issued Islamic finance and wealth management blueprint in 2017 to support the development of IWM in Malaysia. Most Islamic banks offer wealth management products to cater to client needs in managing wealth, such as Bank Islam Malaysia Berhad (BIMB), Bank Muamalat Malaysia Berhad (BMMB), Maybank, CIMB Bank, and so forth. Islamic Banking will collaborate with other Islamic financial institutions to cover the need of customers.

For instance, in Bancatakaful, Malaysia Berhad (Bank Muamalat) signed an agreement with Bank Muamalat Great Eastern Takaful Berhad (GETB) to enter into a strategic alliance to distribute Bancatakaful products.⁶⁸ Also, for investment and wealth distribution products, Islamic banks will cooperate with other Islamic financial institutions like Islamic estate and *zakat* institutions. It can be stated that IWM is a holistic product and service of Islamic banking in cooperation with other Islamic financial institutions in helping the client's financial needs based on Islamic ethical values contributing to commercial, environmental and social purposes.

tahun-2004-tentang-wakaf/#:~:text=Pasal 1-,Wakaf adalah perbuatan hukum wakif untuk memisahkan dan%2Fatau menyerahkan,atau kesejahteraan umum menurut syariah.

⁶⁷Garba B. Bello and Ahmed A. Maiyaki, "Islamic Wealth Management," in *Islamic Banking and Finance* (Kedah: Universiti Utara Malaysia (UUM), 2013), 45.

⁶⁸TMR, "Great Eastern Takaful Partners Bank Muamalat," *The Malaysian Reserve*, 2022, <https://www.themalaysianreserve.com/new/story/great-eastern-takaful-partners-bank-muamalat>.

Conclusion

It can be concluded that several models of Islamic banking have combined commercial and social aspects, even though the debate on the issues has remained among scholars. Some Islamic banks create a new product, and others become the agent of Islamic social finance institutions to collect Islamic social funds. Although the existing models look different, they have a common goal, namely promoting the benefit of the *ummah* in accordance with sharia objectives. Islamic banks cannot stand alone in carrying out social objectives, so it is necessary to collaborate with Islamic social finance institutions such as *zakat* and *waqf* institutions. The development of Islamic banking should be within the sharia paradigm framework, which is focused on the validity of the contract (form) and how to provide *maslahah*/benefit for the *ummah* (substance). In sharia paradigm, Islamic banking should promote a balance of economics that combine profit and social oriented in its activities because it is also related to the nature of humans that contain perfect elements such as intellect, physical, social, and spiritual being. Therefore, Islam as a *din* guides their natures in sharia and its objectives (*maqasid*) to achieve *falah* (successful life here and the hereafter).

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Theory of Rights in Islamic Economic Law and Its Relation to Intellectual Property Rights

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Abstract

The study of the theory of rights in Islamic economic law and its relation to intellectual property rights is an outpouring of ideas from the author. That in this research, although the term Intellectual Property Rights (IPR) is not known in the turats books, basically this is part of the theory of rights in fiqh muamalah, namely haq al-ibtikar. Haq al-ibtikar is an extraordinary privilege for a creation that was first created by a scientist through his way of thinking or his analysis as outlined in a work. For example, such as writing, books, videos, or other media. The research method used in this article is a qualitative approach, which is done by researching library materials which are secondary data and then described based on the analysis of the data. The results of this research are that copyright is legally protected from an Islamic point of view, and copyright infringement is seen as a violation of property or assets, so the legal sanctions are the same as sanctions for theft of property or property belonging to others. However, it should be emphasized that in Islam only recognizes and protects copyrighted works that are in harmony with the norms and values contained in them. If the copyrighted work is contrary to Islamic values, then it is not recognized as a copyrighted work, even protection for copyrighted works does not even exist and is not legal

to protect. In Indonesia, the rules regarding haq al-ibtikar are regulated in UUU No. 28/2014 concerning Copyright.

Keywords: *Theory of Rights; Islamic Economic Law; Copyright*

Abstrak

Kajian tentang teori hak dalam hukum ekonomi syariah serta kaitannya dengan hak kekayaan intelektual merupakan sebuah curahan dan gagasan pemikiran dari penulis. Bahwasannya dalam kajian ini, walaupun istilah Hak Kekayaan Intelektual (HKI) tidak dikenal dalam kitab-kitab turats, pada dasarnya ini merupakan bagian dari teori hak yang ada dalam fiqh muamalah, yaitu haq al-ibtikar. Haq al-ibtikar adalah suatu keistimewaan yang luar biasa atas suatu ciptaan yang pertama kali dibuat yang dihasilkan oleh seorang ilmuwan melalui jalan pemikirannya atau analisisnya yang dituangkan dalam suatu karya. Misalnya seperti tulisan, buku, video, atau media lainnya. Metode penelitian yang digunakan dalam artikel ini adalah dengan pendekatan kualitatif, yang dilakukan dengan cara meneliti bahan pustaka yang merupakan data sekunder lalu kemudian dideskripsikan berdasarkan analisis data tersebut. Hasil dari kajian ini adalah secara hukum hak cipta dalam sudut pandang Islam dilindungi keberadaannya, dan pelanggaran terhadap hak cipta dipandang sebagai pelanggaran terhadap properti atau harta kekayaan, sehingga sanksi hukumnya sama seperti halnya sanksi terhadap pencurian harta atau benda milik orang lain. Namun perlu dipertegas bahwasannya dalam Islam hanya mengakui dan melindungi karya cipta yang selaras dengan norma dan nilai yang ada di dalamnya. Jika karya cipta tersebut bertentangan dengan nilai-nilai Islam, maka ia tidak diakui sebagai karya cipta, bahkan perlindungan terhadap karya cipta pun tidak ada bahkan tidak sah untuk dilindungi. Di Indoensia aturan tentang haq al-ibtikar di atur dalam UUU No. 28/2014 tentang Hak Cipta.

Kata Kunci: *Teori Hak; Hukum Ekonomi Syariah; Hak Cipta*

Introduction

Before someone starts living with society and before the relationship between one individual and another develops, maybe we will not know what called rights. Every human being who lives in society needs each other in dealing with various kinds of needs. To meet these needs, someone needs to find what they need, whether they are obtained from themselves, or obtained from other people's property. Thus, conflicts will arise.

So to manage the interests of each need the rules that regulate human needs. The goal is that these humans do not violate the rights

of others, nor do they violate the independence of others. The rules that are needed are rules that regulate human rights so that human needs are not violated by others, and so that humans do not violate the rights of others.¹

Islamic jurisprudence has established several rules, and several laws, both of which are basic rules and branches in a very perfect way that has never been known by other *tasyri'*. One of them is *nazariyatul haq* or it can be said also with the term *fikriyaftul haq*.²

Theoretically, the notion of rights is the specificity set by the *syara'* on power.³ In *fiqh muamalah*, the discussion of rights is always juxtaposed with the concept of property in Arabic termed "*al-milk*". Etymologically means mastery of something or something that is owned (wealth).⁴ The definition of ownership is the specificity of the property of an object according to the *syara'* to act freely to take advantage of the goods as long as there is no *syara'* barrier. This means that if someone already has the right to own an asset, then that person has the power and authority to take action on the property he owns.⁵

Property rights in the context of *fiqh*, it has been widely discussed in various Islamic legal literature, both in classical *fiqh* books, as well as modern *fiqh* books. However, one aspect of business law that has not been touched much is intellectual property rights, which in Indonesian translation means intellectual property rights or what is currently better known as Intellectual Property Rights (IPR). In general, IPR can be understood as the right that an individual has over his intellectual work, including to enjoy the material and/or non-material consequences of that work.⁶ For example, copyright in

¹Nita Triana, "Menggagas Hak Kekayaan Intelektual Perspektif Hukum Islam Ke Dalam Hukum Nasional," *Al-Manahij: Jurnal Kajian Hukum Islam* 12, no. 2 (2018): 181, <https://doi.org/10.24090/mnh.v12i2.1747>.

²Miftakhul Huda, "Konsep Dan Kedudukan Hak Kekayaan Intelektual Dalam Hukum Islam," *Salimiya: Jurnal Studi Ilmu Keagamaan Islam* 1, no. 1 (2020): 39, <https://ejournal.iaifa.ac.id/index.php/salimiya/article/view/87>.

³Abdul Rahman Ghazaly, *Fiqh Muamalat* (Jakarta: Kencana Prenada Media Group, 2012), 96.

⁴*Ibid.*

⁵Andri Soemitra, *Hukum Ekonomi Syariah Dan Fiqh Muamalah Di Lembaga Keuangan Dan Bisnis Kontemporer* (Jakarta: Kencana Prenada Media Group, 2019), 22.

⁶Irma Sylviyani Herdian, "Sengketa Kepemilikan Hak Kekayaan Intelektual Sebagai Harta Bersama Dalam Kasus Perceraian," *Aktualita: Jurnal Hukum* 3, no. 1 (2020):

composing, composing music, creating books, producing scientific publications, and so on so that the royalties from the results of the song or book become the rights of the creator of the song or book.⁷

So related to the above background, the researcher will explain the theory of rights in Islamic economic law and its relation to Intellectual Property Rights (IPR). It is important to explain, because intellectual property rights are closely related to other legal aspects, such as technological, economic, and artistic aspects. there's even an Italian model designer named Pierre Cardin,⁸ who came to Indonesia to ask the Indonesian government to pay more attention to someone's work not to piracy "*what I want*". In general, Intellectual Property Rights (IPR) in Indonesia are protected and there is a legal standing. For copyright, there is UU No. 28/2014, regarding patent rights, there is UU No. 13/2016, regarding trademark rights, there is UU No. 20/2016, regarding trade secrets, there is UU No. 30/2000, and so on.⁹

In this regard, the researcher will focus this research on the theory of rights in Islamic law and the discussion of intellectual property rights regarding copyright only, does not discuss intellectual property rights as a whole. The formulation of the problem that can be taken in this research is, what is the view of copyright in the study of Islamic economic law? Is copyright pre-regulated in classical books or Islamic literature and what are the challenges of Islamic law regarding copyright?

This research must be discussed to serve as reference material and discussion material for academics and also as implementation material for practitioners, especially practitioners in the field of Islamic business law. This paper begins by discussing the origins of rights in the study of Islamic economic law, discussing the terms and pillars of rights, and the various rights in Islamic law. Next, discuss Intellectual Property Rights (IPR) in general, then discuss the

398, <https://doi.org/10.29313/aktualita.v0i0.6038>.

⁷Indonesia, "Undang-Undang Republik Indonesia Nomor 28 Tahun 2014 Tentang Hak Cipta," Direktorat Jenderal Peraturan Perundangan-Undangan, 2014, <https://peraturan.go.id/common/dokumen/ln/2014/uu28-2014bt.pdf>.

⁸Farida Hasyim, *Hukum Dagang* (Jakarta: Sinar Grafika, 2018), 184.

⁹DJKI, "Kompilasi Peraturan Perundangan Hak Kekayaan Intelektual (HKI)," Direktorat Jendral Kekayaan Intelektual Kementerian Hukum & HAM R.I., 2022, <https://www.dgip.go.id/unduh/kompilasi-pp?kategori=merek>.

distribution of Intellectual Property Rights (IPR) in Indonesian law, and finally discuss more specifically copyright and its legal basis in Indonesian laws and regulations.

Methodology

The research method used is a qualitative approach. The qualitative research method is inductive to gain understanding or meaning, developing theories, and describing complex realities, so that they include views on the reality of the object under research.¹⁰ While the type used in writing this journal is library research. Research with this method uses the process of collecting library data from several books and legal articles,¹¹ which discuss the theory of *haq al-ibtikar*, the law on Intellectual Property Rights (IPR), especially those related to copyright, journals, and other scientific works by reading, recording, and process this research material with related literature.¹²

The use of this literature study method is based on the condition of secondary data sources which are static and not limited by space and time. Secondary data from libraries that are ready to use are certainly very helpful for this research. Based on this method, the data collection used the documentation method.¹³ The analysis process is carried out continuously from start to finish.¹⁴ The analysis process in question includes data interpretation, language translation, word editing, and compiling them in a logical systematic way, so that the

¹⁰Hartijo Soemitro Ronny, *Metode Penelitian Hukum* (Yogyakarta: Thafa Media, 1994), 34.

¹¹Muhammad Irkham Firdaus et al., "Implementation of the Qardh Agreement on the Financial Technology Lending Platform in the Development of Small and Medium Enterprises (SME) in Indonesia," *Al-Iktisab: Journal of Islamic Economic Law* 6, no. 1 (2022): 67, <https://doi.org/10.21111/al-iktisab.v6i1.7774>.

¹²Sumadi Suryabrata, *Metode Penelitian* (Jakarta: PT Raja Grafindo Persada, 2011), 22.

¹³Devid Frastiawan Amir Sup, "Cessie Dalam Tinjauan Hukum Islam," *Jurisprudensi: Jurnal Ilmu Syariah, Perundangan-Undangan Dan Ekonomi Islam* 11, no. 1 (2019): 51, <https://doi.org/10.32505/jurisprudensi.v11i1.995>.

¹⁴Devid Frastiawan Amir Sup, "Government Efforts to Prevent Potential Violence Against Women During the Covid-19 Pandemic in Indonesia," *Syariah: Jurnal Hukum Dan Pemikiran* 21, no. 1 (2021): 106, <https://doi.org/10.18592/sjhp.v21i2.4146>.

resulting description can become a complete concept building that is easy to understand.^{15 16} Furthermore, ideas and rational expectations are the next steps in journal analysis by comparing the two different points of view, which is a method in journal writing analysis so that a conclusion is obtained to get the ideas in this research.

Results and Discussion

According to etymology, rights have several meanings, namely, they can be interpreted as objects, property, form, real, true, what is guarded, essence, or can also be concluded as permanent and mandatory or certain.¹⁷ In terminology, rights have two main meanings. *First*, “A collection of sharia rules and regulations that govern human relations with the obligation to obey human beings, both regarding personal and property”. According to the above definition, rights have the same meaning as the legal definition according to *fiqh* scholars, namely the decree of the maker of *syara’* or *al-qanun* (rules/laws).¹⁸ *Second*, “Power (over something) determined by *syara’* or obligatory demands for someone over another person”. This second understanding is what is meant by the provisions “The buyer has the right to return the goods he bought if it turns out that there is a disability and the legal actions of minors are the rights of his guardian”. This definition is the object of this research.¹⁹

The *fiqh* scholars argue that there are two pillars of rights, namely the owner of the right (the person who has the right) and the object of the right, both material and debt. The owner of the rights, in the view of Islamic law, is Allah Swt., whether it concerns religious rights, personal rights, or legal rights, such as associations, foundations, or what in *fiqh* terms is called *al-syakhsiiyyah al-i’tibariyyah*.

¹⁵Devid Frastiawan Amir Sup, “The State’s Efforts in Preserving the Environment Through Regulation,” *Sustainability: Theory, Practice and Policy* 1, no. 2 (2021): 204.

¹⁶Devid Frastiawan Amir Sup et al., “Dinamika Regulasi Sertifikasi Halal Di Indonesia,” *JESI (Jurnal Ekonomi Syariah Indonesia)* 10, no. 1 (2020): 37, [https://doi.org/10.21927/jesi.2020.10\(1\).36-44](https://doi.org/10.21927/jesi.2020.10(1).36-44).

¹⁷Ghazaly, *Fiqh Muamalat*, 45.

¹⁸Masduna Abdurrahman, *Pengantar Dan Asas-Asas Hukum Perdata Islam* (Surabaya: Central Media Surabaya, 1992), 70.

¹⁹*Ibid.*, 72.

A human being, according to the provisions of *syara'*, has had personal rights since he was a fetus and these rights can be fully utilized if the fetus is born into the world safely. These God given personal rights will expire with the death of the owner of the rights.²⁰

Various rights according to Islamic law: (1) In terms of the owner or terms of benefits: (a) God's right, are rights whose general use is comprehensive and not specific. To be associated with the name of Allah is because of its great importance and its benefit to all mankind. Obligations of servants to Allah through sharing good deeds, such as performing prayers, *zakat*, fasting, hajj, and admonishing good and evil; (b) Human rights, are a benefit or power that is intended for the special interests of the owner. For example, the right to receivables, the seller's right to the price of the goods sold, and the right to a living for the wife and others; (c) Shared rights, a combination of God's rights and human rights. *First*, namely mutual rights between God's rights and human rights but God's rights are more numerous, such as the "*qadzap*" punishment (accusations of adultery). *Second*, shared rights between God's rights and human rights but human rights are more numerous. Like "*qishas*" (*qishas* demands for revenge); (2) Judging from the point of view of whether or not it can be aborted. Rights are divided into two, namely rights that can be aborted and rights that cannot be aborted. Rights that can be aborted include *syuf'ah* rights, *khiyar* rights, namely the right to cancel or continue the sale and purchase agreement because of defects, *qishas* rights, and so on. Rights that cannot be aborted such as rights that cannot be aborted because the rights of other parties are still concerned, for example, *hadhanah* (childcare) rights for mothers who cannot be aborted because on the child's side they have the right to be cared for; (3) In terms of whether or not inheritance is possible, rights are divided into rights that can be inherited and rights that cannot be inherited. Inherited rights such as the seller's right to hold the goods sold before the price is paid off, the pawnee's right to hold the mortgaged goods, and so on. As for the rights that cannot be inherited, such as *syuf'ah* rights, *hadanah* rights, and guardianship rights; (4) In terms of its relationship with the domicile or owner, the

²⁰Mardani, *Hukum Bisnis Syariah* (Jakarta: Prenadamedia Group, 2014), 110.

rights are divided into *mujaradah* rights and *ghairu mujaradah* rights. *Mujaradah* rights are rights that are not determined at their domicile and will disappear with the abandonment, so depending on the owner it is used or not, such as *syuf'ah* rights, rotating rights for the wife. The rights of *ghairu mujaradah* are rights that are not like the *qishas* rights, the special rights of a husband over his wife; (5) Judging from the aspect of its relevance, namely whether it is related to objects or not, rights are divided into two, namely *maliyah* rights and *ghairu maliyah* rights. *Maliyah* rights are rights related to concrete objects, debts, and benefits. While the *ghairu maliyah* rights are rights that are not related to objects, such as the rights of guardians over children or people under guardianship, political rights such as the right to vote and be elected, human rights such as the right to independence. The right of *maliyah* is divided into two, namely the right of *syakhshi* and the right of *'aini*. First, the right of *syakhshi* is a demand that is determined by the *syara'* for someone against another person. This right is sometimes related to the obligation to carry out an action that has value for the benefit of the owner of the right, such as in a sale and purchase agreement, the seller has the right to the price that must be submitted by the buyer and the buyer himself has the right to the goods that must be submitted by the seller. These two rights are rights that arise because of the direct relationship between a person and a certain object. An example of this right is, for example, property rights. The owner of the object has direct power over the object owned. Therefore, there is no need for another party, just the owner and the object. So this right has two elements, namely the owner of the right and the object of the right, namely objects. In contrast to the *syakhshi* rights, in addition to these two elements, a third element is needed, namely the party being sued (the debtor).²¹

When we talk about ownership, we also talk about rights at the same time, considering that ownership means the rights that a person has over an object or property. The terms rights and property are two terms that cannot be separated from each other. Rights are part of a person's possession of an object that he can use according to his needs

²¹Soemitra, *Hukum Ekonomi Syariah Dan Fiqh Muamalah Di Lembaga Keuangan Dan Bisnis Kontemporer*, 23.

without the need to ask permission from others to use it. So in familiar language, we often mention the term “*property*”. *Al-milk* comes from Arabic which etymologically means mastery of something. *Al-milk* also means something owned.²² Meanwhile, in terms of ownership, the property is manifesting power in a person over the wealth he has by using a certain mechanism, so that ownership is made as a right according to *syara’* given to someone.²³

Ownership in Islam can be divided into three groups, namely individual ownership, public ownership, and state ownership. The researcher will describe in detail related to this ownership category in: (1) Individual ownership, in English referred to as “*private property*”, is a sharia legal provision that applies to certain substances or benefits (services), which allows anyone who gets them to take advantage of the goods, as well as obtain compensation when the goods are used by other people. others, such as being rented or purchased from the item. Another understanding of ownership is to manifest power over the wealth it has by using certain mechanisms so that ownership becomes a *syara’* right given to someone. Therefore everyone can have wealth with certain causes or ways of ownership; (2) Public ownership, in English referred to as “*collective property*”, is a *syar’i* permission to a community to jointly use objects. Objects that are included in the category of public ownership are objects that have been declared by Allah and *Rasulullah* that these objects are for a community where they each need each other. Objects that are included in public ownership are as follows: (a) Objects that are public facilities. If it does not exist in a country or a community it will cause difficulties. For example water, fire, and sea; (b) A very large amount of minerals; (c) Objects whose formative nature prevents them from being owned only by individuals;²⁴ (3) State ownership, assets that include state ownership are assets that are the rights of all Muslims whose management is under the authority of the state. In its management, the state can give to some citizens according to its policies. The meaning of management by the state is the power

²²Ghazaly, *Fiqh Muamalat*, 46.

²³Fathurrahman Djamil, *Hukum Ekonomi Islam: Sejarah Teori Dan Konsep* (Jakarta: Sinar Grafika, 2013), 196.

²⁴*Ibid.*, 201.

possessed by the state to manage it, for example, property *fai*, *kharaj*, *jizyah*, and so on.²⁵ If in the current context of Indonesia, such as tax management, APBN, BUMN, and so on.

The *fiqh* scholars state that there are several ways to own property that are prescribed by Islam, including the following: (1) Through the control of assets that are not owned by a person or other legal institutions which in Islam are called permissible assets. Examples are rocks in a river that are not owned by a person or legal institution. If someone takes the stones and sand from the river and brings them to his house, the stones and sand become his, and other people cannot take the stones and sand that he has mastered; (2) Through a transaction that he does with other people or legal institutions, or it can be said through a contract. such as buying and selling, grants, leases, and waqf. This transaction is often used by the community so that the object becomes theirs. Ownership can be obtained through transactions made by one person with another. The transactions carried out can be in the form of transactions in the form of exchanges or transactions in the form of mixtures; (3) Through one's legacy, such as receiving an inheritance from his deceased heirs. Inheritance is a means of obtaining ownership. Whoever receives the inheritance then legally has the right to the property. A person who gets property through inheritance is free to use his property according to his will because he already has the inheritance; (4) The results/fruits of property that a person has, whether the results come naturally, such as the fruit of a tree in the garden, a calf born from its mother, or through an owner's business. Such as the results of his efforts as a worker, as an employee, and as a thinker who produces a creation or trade profits obtained from a trader;²⁶ (5) Voluntary giving is one of the causes of ownership. Voluntary giving is a gift from a person or one party to another without compensation for any assets or labor but based on the willingness of the party who gives. The provision can be in the form of a grant contract, *infaq*, waqf gifts, and so on by sharia provisions.²⁷

²⁵*Ibid.*, 208.

²⁶Ghazaly, *Fiqh Muamalat*, 48.

²⁷Djamil, *Hukum Ekonomi Islam: Sejarah Teori Dan Konsep*, 216.

Intellectual property rights in classical *fiqh* literature are not as well known as those in the current Indonesian legislation, so we will not find the study in the *turats* books.²⁸ But this intellectual property right was born in the west after the invention of the printing press. The birth of IPR was due to a business competition between book publishers at that time, so to maintain the originality of a book and not just print it en masse, the author's works were protected by the term copyright.²⁹ The Berne Convention for the Protection of Artistic and Literary Works in 1886 AD was the first to regulate copyright issues between sovereign countries. In this convention, it is granted automatically to copyrighted works and authors do not have to register their works to get copyright. As soon as a work is printed or stored in one medium, the author gets exclusive copyright rights to the work, until the author explicitly states otherwise or until the copyright period expires.³⁰

In the context of Indonesia, in general, IPR is divided into two types, namely copyright and industrial property rights. Copyright is regulated in UU No. 28/2014. However, there are several parts of industrial property rights, including patent rights regulated in UU No. 13/2016, trademark rights are regulated in UU No. 20/2016, industrial design is regulated in UU No. 31/2000, integrated circuits are regulated in UU No. 32/2000, trade secrets are regulated in UU No. 30/2000, and plant varieties are regulated in UU No. 29/2000.³¹

The researcher, in describing this article, will focus more on the discussion of intellectual property rights regarding copyright only. The researcher does not further discuss intellectual property rights in general. Such as industrial property rights, which include trademark rights, patent rights, trade secret rights, and so on.

Copyright in Islamic studies is known as *haq al-ibitakar*.³² This word consists of two series of words, namely the pronunciation of

²⁸Ahmad Sarwat, *Ensiklopedia Fikih Indonesia: Muamalat* (Jakarta: PT Gramedia Pustaka Utama, 2018), 429.

²⁹*Ibid.*, 432.

³⁰*Ibid.*, 433.

³¹DJKI, "Kompilasi Peraturan Perundangan Hak Kekayaan Intelektual (HKI)."

³²Yandi Maryandi, "Sanksi Pelanggaran Hak Cipta Menurut Hukum Pidana Islam Dan Hukum Positif Di Indonesia," *Tahkim: Jurnal Peradaban Dan Hukum Islam* 2, no. 2 (2019): 23, <https://doi.org/10.29313/tahkim.v2i2.5113>.

"*haq*" and "*al-ibtikar*". Among the meanings of "*haq*" is the specificity possessed by a person or group of people or a newly created creation (*al-ibtikar*). The word "*al-ibtikar*" etymologically comes from Arabic in the form of *masdar isim*. The past tense verb (*fi'il madhi*) of this word is "*ibtikara*" which means to create. If it says "*ibtikara al-shai'a*" it means that he has created something. Meanwhile, according to terminology, *haq al-ibtikar* is "*the privilege of a creation that was first created*".³³ According UU No. 28/2014 concerning Copyright, it is stated that, "*Copyright is the exclusive right of the creator that arises automatically based on declarative principles after a work is realized in a tangible form without reducing restrictions by the provisions of laws and regulations*".³⁴

Ownership of copyright in this copyright law is essentially the right to become the copyright holder is the creator. The party considered as the creator is the person whose name is registered in the general register of creation at the directorate general of the Ministry of Law and Human Rights of the Republic of Indonesia. If a creation consists of several separate parts created by two or more people, then it is considered as the creator is the person who leads and oversees the completion of the entire creation. However, if there is no such person, then the one who is considered the creator is the person who collected it without reducing the respective copyrights for that part of his creation.³⁵

In classical Islamic law, there is no discussion of copyright, especially at the beginning of the formation of Islamic law. Basically, in the past, scholars and scientists worked with one goal, namely seeking the pleasure of Allah Swt. Without wanting to get profit or wealth. The history and development of copyright took place outside the Islamic world, namely at the beginning of the 19th century AD. This is what makes Muslim scholars claim that the concept of copyright comes from capitalists who are too concerned with material. In its early history, several Islamic countries have issued

³³Fathi Al-Duraini, *Haq Al-Ibtikar Fi Al-Fiqh Al-Islami Al-Muqaran* (Beirut: Mu'assasah Al-Risalah, 1984), 20.

³⁴Indonesia, "Undang-Undang Republik Indonesia Nomor 28 Tahun 2014 Tentang Hak Cipta."

³⁵Burhanuddin S., *Hukum Bisnis Syariah* (Yogyakarta: UII Press, 2011), 213.

regulations regarding copyright protection, among these countries are: (1) The Ottoman Caliphate in 1910 had issued the *Qonun Haq Al-Ta'lif* (writing copyright law); and (2) Morocco 1916 enacted the *Qonun Al-Maghribi* (Morocco Law). Because there is no discussion from classical scholars, contemporary Muslim scholars (new things at this time) discuss it within the scope of *masail fihiyah* (contemporary *fiqh* studies). Fathi Al-Dhuraini discusses specifically in his book *Al-Fiqh Al-Islami Al-Muqaran Ma'a Al-Mazahib* in the chapter *Haq Al-Ibtikar Fi Al-Fiqh Al-Islami Al-Muqaran*. He said that there had not been a single scholar who discussed this issue in detail in previous times, except for Imam Al-Qarafi (d.684 H/1285 AD) in the book of *Al-Furuq*.³⁶

Based on its history, the concept of copyright is the product of a thought that grew and developed in non-Islamic areas, where at first it was only protection for book publishers, but after being dominated by capitalist understanding.³⁷ This concept then spread to all corners of the world and entered the treasures of Islamic law. Islam with its universal legal character provides answers to this problem. Islam has its concept of copyright which is different from other ideologies.³⁸

The majority of scholars from the *Imam* schools of thought, such as Maliki, Syafi'i, and Hanbali believe that copyright for original creations and benefits are classified as valuable assets as objects if they can be used according to *syara'* (Islamic law).³⁹ About authorship rights (*haqq al-ta'lif*) as part of copyright, Zuhaili asserts, "*Based on the case (that the right of authorship is a right protected by syara' (Islamic law) based on qidah istihlah, reprinting or copying a book (without legal permission) is considered a violation or crime against the author's rights, in the sense that the act is a disobedience*", which causes sin in the view of *syara'* and constitutes theft which requires compensation for the author's rights to the manuscript which was printed unlawfully and unjustly, as well as causing moral loss to him.⁴⁰

³⁶Al-Duraini, *Haqq Al-Ibtikar Fi Al-Fiqh Al-Islami Al-Muqaran*, 20.

³⁷Huda, "Konsep Dan Kedudukan Hak Kekayaan Intelektual Dalam Hukum Islam," 36.

³⁸Sarwat, *Ensiklopedia Fikih Indonesia: Muamalat*, 432.

³⁹Al-Duraini, *Haqq Al-Ibtikar Fi Al-Fiqh Al-Islami Al-Muqaran*, 20.

⁴⁰Wahbah Al-Zuhayli, *Al-Fiqh Al-Islami Wa Adillatuhu Juz 4* (Damascus: Dar al-Fikr, 2008), 2862.

In Indonesia itself related to intellectual property rights, the Indonesian Ulema Council (MUI) issued a *fatwa* on the protection of intellectual property rights at the VII National Meeting on 19-22 Jumadil Akhir 1426 H. Coinciding with 26-29 July 2005 AD. The *fatwa* stated that violation of intellectual property rights is an injustice and the law is unlawful. In the *fatwa*, intellectual property includes various intellectual property rights including protection of copyrights because intellectual property rights are seen as one of the *huquq maliyyah* (property rights) that receive legal protection (*mashum*) as *mal* (wealth).⁴¹

As for the legal basis for the enactment of intellectual property rights, including in the Qur'an surah An-Nisa' verse 29, "*O you who believe, do not eat each other's property in a vanity way, except by way of commerce which is carried out with mutual consent between you. And do not kill yourself, verily Allah is most merciful to you*". In the *hadith*, «*A Muslim is a Muslim brother (another), he should not oppress and insult him*». In another *hadith*, violation of the rights of others is a criminal act, emphasized by the Prophet, "*Every Muslim against another Muslim is forbidden his blood, wealth, and honor*".⁴²

The concept of copyright in Islam is different from the concept of copyright in other systems. Islam as a religion that is by human nature always prioritizes the benefit of humans,⁴³ so that everything that will damage human nature then Islam takes preventive action in the form of a prohibition to approach it or provide justification that it is prohibited (*haram* or *makruh*).

From this, it can be said that Islam only recognizes and protects copyrighted works that are in harmony with the norms and values contained in them.⁴⁴ If the copyrighted work is contrary to Islamic

⁴¹MUI, "Fatwa Majelis Ulama Indonesia Nomor: 1/MUNAS VII/MUI/5/2005 Tentang Perlindungan Hak Kekayaan Intelektual (HKI)," Majelis Ulama Indonesia, 2005, <https://mui.or.id/wp-content/uploads/files/fatwa/37.-Perlindungan-Hak-Kekayaan-Intelektual.pdf>.

⁴²Muslim, *Shahih Muslim* (Beirut: Dar Al-Fikr, 1993), 517.

⁴³Ade Hidayat, "Konsep HAKI Dalam Hukum Islam Dan Implementasinya Bagi Perlindungan Hak Merek Di Indonesia," *Adliya: Jurnal Hukum Dan Kemanusiaan* 8, no. 1 (2020): 176, <https://doi.org/10.15575/adliya.v8i1.8626>.

⁴⁴MUI, "Fatwa Majelis Ulama Indonesia Nomor: 1/MUNAS VII/MUI/5/2005 Tentang Perlindungan Hak Kekayaan Intelektual (HKI)."

values, then it is not recognized as a copyrighted work and there is no protection for the copyrighted work.

For example, creative works that lead to polytheism, such as idols, paintings that reveal genitalia, books containing various shirks, deifications, inviting major sins, songs that invite disobedience, and others. All these types of “*invented works*” are not recognized as copyrighted works in Islam, more specifically, these copyrighted works must be kept away from and destroyed from Islamic society. Thus the protection of copyright in Islam has conditions that must be met so that a copyrighted work can be recognized as ownership rights over the property. These requirements are closely related to the copyrighted work which is a medium for pouring out the creator’s ideas.

Among the conditions are: (1) It does not contain *haram* elements in it such as *khamr*, usury, gambling, pork, blood, and carrion; (2) Do not cause damage to society such as pornography, violence, inviting people to sin, destroying the environment, and so on; (3) Does not conflict with Islamic law in general, such as making idols to be worshiped by humans, pictures that damage morals, books that teach heretical teachings, deviations from *manhaj*, invites to shirk, and others.

The current challenge of contemporary Islamic law related to copyright is how contemporary Islamic law makes a full contribution to maximizing the application of criminal law in Indonesia. Because if you look closely, the enforcement of law in Indonesia about copyright has not been fully maximized. Therefore, to maximize the application of the law, it is necessary to formulate Islamic law that is by the Indonesian context, which is then proposed as material for national law. The opportunity for Islamic law to contribute to the formation of national law will be very large if the formulation of Islamic law offered can be accepted by the (majority) of the Indonesian people.

Legislation in the civil sector is already quite a lot that comes from Islamic law, although most of it only applies to Muslims. While in the criminal field, Islamic law has not contributed, because the criminal law that applies in Indonesia still uses the law of the Dutch colonial heritage. Besides that, criminal law, unlike civil law

where there is a choice, must be applied uniformly and unified for all Indonesian people.⁴⁵ However, this does not mean that there is no opportunity for Islamic criminal law to become or at least become material for the formation of a national criminal law.

Several factors influence people to violate copyright, which includes the following: (1) As a shortcut to get the maximum benefit from copyright infringement. This is what makes the background for the birth of the copyright act currently in force in Indonesia; (2) Some people are proud when their work is imitated by others so the copyrighted works they make do not need to be registered with the Director General of Intellectual Property Rights of the Ministry of Law and Human Rights to protect their creations; (3) The violators consider that the legal sanctions imposed by the courts have so far been too light and even no preventive or repressive measures have been taken by law enforcers; (4) People don't pay attention to whether the goods they buy are genuine or fake, what is important for them is that the price is cheap and affordable with economic capacity; (5) By committing a violation, the tax on the product resulting from the violation does not need to be paid to the government.⁴⁶

Sanctions that can be imposed by copyright law are civil and criminal. If a work in the field of literature and art that has been protected by copyright law is violated, the copyright holder has the right to file a lawsuit to claim compensation from the district court, without prejudice to the state's right to file criminal charges against the copyright infringement.

Based on this consideration, to prevent greater losses to the party whose rights have been violated, at the time of examination of the case, the judge is given the authority to order the violator to immediately stop all activities of making, reproducing, broadcasting, distributing, and selling the work by the beliefs he obtained during the examination.

Criminal legal threats according to the law can be grouped into four groups, namely as follows: (1) Those who commit the act

⁴⁵Khoiruddin Nasution, *Isu-Isu Kontemporer Hukum Islam* (Yogyakarta: Suka Press, 2007), 124.

⁴⁶Maryandi, "Sanksi Pelanggaran Hak Cipta Menurut Hukum Pidana Islam Dan Hukum Positif Di Indonesia," 29.

of announcing or reproducing a work or giving permission for it will be punished with imprisonment for a maximum of seven years and/or a fine of a maximum of Rp 100.000.000,- (one hundred million rupiahs); (2) If they intentionally act in the form of broadcasting, exhibiting, distributing, or selling to the public, the threat is five years imprisonment and or a maximum fine of Rp 50.000.000,- (fifty million rupiahs); (3) After hearing the considerations of the Copyright Council, violating government policies in the fields of state defense and security, morality, and public order, the punishment is a maximum imprisonment of three years or a maximum fine of Rp 25.000.000,- (twenty five million rupiahs); (4) In case of violating the copyright on a portrait of a person, the threat is imprisonment for a maximum of two years and/or a fine of a maximum of Rp 15.000.000,- (fifteen million rupiahs).⁴⁷

Conclusion

From the explanation above, it can be concluded that right is power (over something) that is determined by *syara'* or demands that are obligatory for one person over another. In contemporary Islamic law, there is a name copyright. This word consists of two sets of words, namely the words "*haq*" and "*al-ibtikar*". Among the meanings of "*haq*" is the specificity possessed by a person or group of people or a newly created creation (*al-ibtikar*). The word (*ibtikar*) etymologically comes from Arabic in the form of *masdar isim*. The past tense verb (*fi'il madhi*) of this word is "*ibtikara*" which means to create. If it says "*ibtikara al-shai'a*" it means that he has created something. Meanwhile, according to terminology, *haq al-ibtikar* is a "*privilege of a creation that was first created*", copyright in the Islamic perspective is protected for its existence, and violation of this right is considered a crime against property. The challenge faced by contemporary Islamic law is the need to contribute Islamic legal thought in the Indonesian context to maximize the application of national criminal law because the product of national criminal law is still adopted by law from the Dutch.

⁴⁷Hasyim, *Hukum Dagang*, 194.

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Tourism in the Perspective of Islamic Fiqh

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Abstract

Nowadays, halal tourism and tourism trends are increasingly in demand in the world. Seeing this potential, countries, both non-Muslim and Muslim countries, have relatively developed halal tourism. In the development of halal tourism, there is relatively no uniformity and consensus regarding halal tourism both in the world and in Indonesia, so that sometimes it confuses the actors in the tourism industry. This research aims to describe halal tourism activities in Islamic fiqh which is a conceptual review that uses qualitative research methods through literature study. This research results is, halal tourism is a segment of the world tourism market whose growth is good in line with the continued growth of the world's Muslim population, the number of a middle class in countries where the population is predominantly Muslim, and the number of world Muslim tourists. This potential causes many countries in the world to focus on serving this tourism segment, both Muslim and non-Muslim countries. Unfortunately, until now there is no uniformity and consensus regarding terms, terminology, content, and requirements for halal tourism both in the world and in Indonesia. Halal tourism standards adopted and used by Indonesia and several other countries in the world today relatively refer to the standards made by the Global Muslim Travel Index (GMTI), while the basic

principles of fiqh in halal tourism in Indonesia are adopted from the Fatwa DSN-MUI No: 108/DSN-MUI/X/2016 concerning Guidelines for the Implementation of Tourism Based on Sharia Principles.

Keywords: *Halal; Tourism; Fiqh; Indonesia*

Abstrak

Saat ini wisata dan trend wisata halal semakin diminati di dunia. Melihat potensi itu membuat negara-negara baik negara non-Muslim maupun negara Muslim relatif sudah mengembangkan wisata halal. Dalam perkembangan wisata halal relatif belum terdapat keseragaman dan konsensus mengenai wisata halal baik di dunia maupun di Indonesia sehingga kadang membingungkan para pelaku dalam industri pariwisata. Penelitian ini bertujuan untuk mendeskripsikan kegiatan wisata halal dalam fiqh Islam yang merupakan tinjauan konseptual yang menggunakan metode penelitian kualitatif melalui studi pustaka. Hasil penelitian ini adalah, wisata halal merupakan segmen pasar pariwisata dunia yang pertumbuhannya baik sejalan dengan terus tumbuhnya populasi Muslim dunia, jumlah kelas menengah di negara-negara yang penduduknya mayoritas Muslim, dan jumlah wisatawan Muslim dunia. Potensi tersebut menyebabkan banyak negara di dunia fokus melayani segmen wisata ini, baik negara Muslim maupun non-Muslim. Sayangnya, sampai saat ini belum ada keseragaman dan kesepakatan mengenai istilah, terminologi, isi, dan persyaratan wisata halal baik di dunia maupun di Indonesia. Standar pariwisata halal yang dianut dan digunakan oleh Indonesia dan beberapa negara lain di dunia saat ini relatif mengacu pada standar yang dibuat oleh Global Muslim Travel Index (GMTI), sedangkan prinsip dasar fiqh dalam pariwisata halal di Indonesia diadopsi dari Fatwa DSN-MUI No: 108/DSN-MUI/X/2016 tentang Pedoman Penyelenggaraan Pariwisata Berdasarkan Prinsip Syariah.

Kata Kunci: *Halal; Wisata; Fiqh; Indonesia*

Introduction

Islam is a religion with the fastest population growth in the world where the world's Muslim population in 2015 is estimated at 1,8 billion people or 24% of the world's population and is the religion with the second largest population in the world,¹ where this number is estimated to continue to grow and will increase to

¹Michael Lipka, "Muslims and Islam: Key Findings in the U.S. and Around the World," Pew Research Center, 2017, <https://www.pewresearch.org/fact-tank/2017/08/09/muslims-and-islam-key-findings-in-the-u-s-and-around-the-world/>.

2,8 billion people or 30% of the world's population in 2050,² and it is estimated that by 2075 Islam will become the religion with the largest population in the world.³ Along with the growth of the world's Muslim population, the Global Muslim Travel Index 2019 in its report states that the trend of world Muslim tourists continues to increase from only 25 million in 2000 to 140 million in 2018 and it is estimated that in 2026 there will be 230 million tourists with a total expenditure of USD 180 billion to USD 300 billion of the expenditure comes from on line purchases.⁴ The tourism sector provides a large contribution to the world economy where this sector contributes 10,4% of global GDP, encourages 4,6% global economic growth, and absorbs 9,9% or 313 million jobs from employment.⁵

Carboni et. al., Henderson, and Sen Kupeli et. al.,⁶ said *halal* tourism or Islamic tourism is often used as a synonym, which refers to travel undertaken by Muslims who seek to adhere to the principles and the practice of faith when away from home so that the two terms either *halal* tourism or Islamic tourism are often used interchangeably by researchers. Actually, these two terms can be distinguished where Islamic tourism seems to refer to travel for pilgrimage and religious purposes, which is related to faith in Islam, for example, pilgrimage and *umrah* pilgrimages, worship to Al-Aqsa mosque, and pilgrimages to the tomb of the guardian of Allah. On the other side, *halal* tourism is more likely to lead to trips aimed at leisure, recreation, and social purposes where Muslims also want to see and learn about cultural and historical differences that allow them to better appreciate the

²Pew Research Center, "The Future of World Religions: Population Growth Projections, 2010-2050," Pew Research Center, 2015, <https://www.pewresearch.org/religion/2015/04/02/religious-projections-2010-2050/>.

³BBC News Indonesia, "Islam Akan Menjadi 'Agama Terbesar' Pada 2075," BBC News, 2017, <https://www.bbc.com/indonesia/majalah-39510081>.

⁴Mastercard, "Global Muslim Travel Index 2018," Crescent Rating, 2018, <https://www.crescentrating.com/reports/mastercard-crescentrating-global-muslim-travel-index-gmti-2018.html>.

⁵WTTC, "Economic Impact Reports," World Travel & Tourism Council, 2019, <https://wttc.org/research/economic-impact>.

⁶Alfonso Vargas-Sanchez and Maria Moral-Moral, "Halal Tourism: Literature Review and Experts' View," *Journal of Islamic Marketing* 11, no. 3 (2019): 551, <https://doi.org/10.1108/JIMA-04-2017-0039>.

diversity and wonders of Allah's creation and see the beauty and uniqueness of it.

Although *halal* tourism has been widely developed by many countries in the world, both Islamic countries or countries that have a Muslim population as the majority or countries that have a minority Muslim population because of its potential, the term *halal* tourism is still confusing, where efforts and agreements are needed to clarify the content and requirements. There are several concepts put forward using the terms Muslim tourism, Islamic tourism, *halal* tourism, sharia tourism, Muslim friendly tourism, and hotels that have attracted researchers and the tourism industry but they are a little confused because there is no terminological consensus on what tourism is *halal* tourism.⁷ The term sharia itself which is usually only used in matters related to financial institutions, is now slowly starting to be widely used in terms of Islamic lifestyles, one of which is in the tourism sector where this momentum attracts the attention of tourism stakeholders.⁸ The concept of *halal* tourism is also still under researched at the academic level.⁹ According the explanation above, in the development of *halal* tourism, there is relatively no uniformity and consensus regarding *halal* tourism both in the world and in Indonesia, so that sometimes it confuses the actors in the tourism industry, and this research aims to describe *halal* tourism activities in Islamic *fiqh*.

Methodology

In describing *halal* tourism activities in accordance with Islamic *fiqh* which is a conceptual review, the qualitative research method which is a research method based on the philosophy of post positivism used to examine the condition of natural objects,¹⁰

⁷*Ibid.*, 552.

⁸Nasihin Aziz and Athoillah, "Economic Development Through Halal Tourism," *The Munich Personal RePEc Archive (MPRA)* (Universität München, 2019), 2, <https://mpra.ub.uni-muenchen.de/94834/>.

⁹Alfonso Vargas-Sanchez and Maria Moral-Moral, "Halal Tourism: State of the Art," *Tourism Review* 74, no. 3 (2019): 387, <https://doi.org/10.1108/TR-01-2018-0015>.

¹⁰Sugiyono, *Metode Penelitian Bisnis: Pendekatan Kuantitatif, Kualitatif, Kombinasi, Dan R&D* (Bandung: Alfabeta, 2018), 123.

is used in this research by conducting a literature study with sources of reference books, results of previous studies and other kinds of literature and descriptive analysis is carried out to provide clear, analytical, objective, systematic, and critical information and descriptions of tourism activities in the view of Islamic *fiqh*. In the other word, this methodology is qualitative-descriptive-literature.¹¹ Based on this method, the data collection used the documentation method.¹² The analysis process is carried out continuously from start to finish,¹³ includes data interpretation, language translation, word editing, and compiling them in a logical systematic way, so that the resulting description can be easy to understand.^{14 15}

Results and Discussion

If viewed from an etymological point of view, the origin of the word tourism is a Sanskrit word that refers to two words, namely “*pari*” which means around or a lot, and “*wisata*” which means traveling or going, so on that basis tourism can be interpreted as a trip that is carried out repeatedly from one destination to other destinations.¹⁶

While the word *halal* in terms of etymology is an Arabic word that means it is permissible or with the meaning of all objects or activities in Islamic teachings that are allowed to be carried out or

¹¹Devid Frastiawan Amir Sup, “Wakaf Kontemporer Di Indonesia Dalam Perspektif Hukum Dan Fatwa,” *Jurnal Hukum Ekonomi Syariah* 4, no. 2 (2021): 239, <https://doi.org/10.30595/jhes.v4i2.11093>.

¹²Devid Frastiawan Amir Sup, “Cessie Dalam Tinjauan Hukum Islam,” *Jurisprudensi: Jurnal Ilmu Syariah, Perundangan-Undangan Dan Ekonomi Islam* 11, no. 1 (2019): 51, <https://doi.org/10.32505/jurisprudensi.v11i1.995>.

¹³Devid Frastiawan Amir Sup, “Government Efforts to Prevent Potential Violence Against Women During the Covid-19 Pandemic in Indonesia,” *Syariah: Jurnal Hukum Dan Pemikiran* 21, no. 1 (2021): 106, <https://doi.org/10.18592/sjhp.v21i2.4146>.

¹⁴Devid Frastiawan Amir Sup, “The State’s Efforts in Preserving the Environment Through Regulation,” *Sustainability: Theory, Practice and Policy* 1, no. 2 (2021): 204.

¹⁵Devid Frastiawan Amir Sup et al., “Dinamika Regulasi Sertifikasi Halal Di Indonesia,” *JESI (Jurnal Ekonomi Syariah Indonesia)* 10, no. 1 (2020): 37, [https://doi.org/10.21927/jesi.2020.10\(1\).36-44](https://doi.org/10.21927/jesi.2020.10(1).36-44).

¹⁶I Ketut Suwena and I Gusti Ngurah Widyatmaja, *Pengetahuan Dasar Ilmu Pariwisata* (Denpasar: Pustaka Larasan, 2017), 80.

used which apply to all aspects of a Muslim's life.¹⁷ Henderson and Hassan states that in an Islamic perspective, all product development (food, drink, and shelter), place (destination), dimensions (culture, religion, economy, etc.) and managing service processes (marketing and ethical issues) should be designed and directed according to Islamic teachings.¹⁸ According to Muhammad Yusuf Qardhawi, "The term *halal* is defined as that which is permitted, with respect to which no restriction exists, and the doing of which the law-giver, Allah is allowed".¹⁹

Richardson and Fluker say that the main characteristic of tourism is that there is an element of travel (movement of people from one place or destination to another), temporary (not permanent), and not for work that earns wages.²⁰ Due to the changing times, the motives and motivations of travel change according to the level of economy and environmental development, and the socio culture of the community itself where along with the increase in human civilization, the needs of a human being will be more complex and the urge to travel becomes stronger.²¹ Currently, human tourism motives are very diverse, including recreation (enjoying attractions and tourism objects, both cultural, artificial, and natural), sports, visits by relatives, friends and relatives, education, health, and so on.²²

In the relative definition, there is no agreement on tourism and tourists academically to date where there are many opinions from experts regarding the definition of tourism including the opinion of Murphy, which states in the dictionary literally tourism means,

¹⁷Mohd Fuaad Said et al., "Exploring Halal Tourism in Muslim Minority Countries: Muslim Travellers' Needs and Concerns," *Journal of Islamic Marketing* 13, no. 4 (2020): 826, <https://doi.org/10.1108/JIMA-07-2020-0202>.

¹⁸Ying-Chan Liu et al., "What Makes Muslim Friendly Tourism? An Empirical Study on Destination Image, Tourist Attitude, and Travel Intention," *Advances in Management & Applied Economics* 8, no. 5 (2018): 29, https://ideas.repec.org/a/spt/admaec/v8y2018i5f8_5_3.html.

¹⁹Muhammad Djakfar, *Pariwisata Halal Perspektif Multidimensi: Peta Jalan Menuju Pengembangan Akademik Dan Industri Halal Di Indonesia* (Malang: UIN-Maliki Press, 2018), 122.

²⁰Muchamad Zaenuri, *Perencanaan Strategis Kepariwisataaan Daerah Konsep Dan Aplikasi* (Yogyakarta: e-Gov Publishing, 2012), 34.

²¹Suwena and Widyatmaja, *Pengetahuan Dasar Ilmu Pariwisata*, 81.

²²Nurul Huda et al., *Pariwisata Syariah: Sebuah Pendekatan Teoretis Dan Riset* (Jakarta: PrenadaMedia, 2021), 188.

*“A journey where the perpetrator return to the original place, a circular trip undertaken for business, pleasure, or education purposes at various places visited and usually using a planned itinerary”.*²³ Then the United Nations Conference on Travel and Tourism in Rome (1963) provides the definition of, *“Every person who visits a country which is not his place of residence, for various purposes, but not to seek work or a livelihood from the country visited”*. The definition made by the Government of the Republic of Indonesia as outlined in UU No. 10/2009 concerning Tourism, *“Tourism is a travel activity carried out by a group of people or a person to a certain destination visited for a temporary period for the purpose of recreation, personal development, or learn about the uniqueness of the tourist attraction visited”*. Meanwhile, the definition of tourism based on the law is, *“A variety of tourism activities and supported by various facilities and services provided by the community, businessmen, government, and local governments”*.²⁴

Because there is relatively no academic agreement on terminology and standard terms in tourism in general, the terminology and standard terms in *halal* tourism in the world are also relatively non existent, where the terms and concepts that are developing are Muslim tourism, Islamic tourism, *halal* tourism, sharia tourism, Muslim friendly tourism, sharia tourism, and hotels so that an effort and agreement is needed to uniform and determine the requirements for *halal* tourism in the world. In Indonesia, there is relatively no law that regulates *halal* tourism where the legal basis for *halal* tourism refers to UU No. 11/2020 concerning Job Creation which amends UU No. 10/2009 concerning Tourism and also UU No. 33/2014 concerning Guaranteed *Halal* Products, where nothing specifically regulates *halal* tourism. The implementation of *halal* tourism in Indonesia basically refers to the Fatwa DSN-MUI No: 108/DSN-MUI/X/2016 concerning Guidelines for the Implementation of Tourism Based on Sharia Principles, where the weakness of the *fatwa*

²³Sedarmayanti, *Membangun & Mengembangkan Kebudayaan & Industri Pariwisata (Bunga Rampai Tulisan Pariwisata)* (Bandung: PT Refika Aditama, 2014), 163.

²⁴Indonesia, “Undang-Undang Republik Indonesia Nomor 10 Tahun 2009 Tentang Kepariwisataaan,” Sekretariat Jenderal DPR RI, 2009, <https://www.dpr.go.id/jdih/index/id/527#:~:text=Undang-Undang Nomor 10 Tahun,bagian dari hak asasi manusia.>

DSN-MUI basically does not have binding legal force compared to the legal basis made by the state.

The concept of *halal* tourism should be an actualization of the Islamic concept, namely the values of *halal*, *haram*, permissible, and *makruh* which become the benchmark and basis for all aspects and policies in *halal* tourism activities.²⁵ The essence of the basic concept in the development of Indonesian tourism both at the national and regional levels rests on the uniqueness, natural authenticity, and cultural diversity that exist in communities in various regions in Indonesia. The philosophical foundation of Indonesia's tourism development is basically in line with the teachings of Islam which consists of: (1) The relationship between humans as creatures and their God as the creator; (2) Human relations where there is a balance of relations between human groups (community) and between human individuals and other individuals; (3) The relationship between the natural resource environment and humans where there is a balance between the natural resource environment (macro cosmos) and humans (micro) in its utilization and sustainability.²⁶

Adopting Cooper, basically there are four components in the development of *halal* tourist destinations, namely: (1) Attractions, including nature and culture that have beauty and uniqueness and are well packaged and planned so that they can increase tourists' faith in Allah Swt. so that the goal of *halal* tourism managers in addition to tourist satisfaction can also increase tourists' faith; (2) Accessibilities, namely good and adequate land and/or river, and/or sea, and/or air access; (3) Facilities such as the availability of accommodation (where the accommodation applies strict regulations such as not providing food and drinks that are not *halal*, not accepting unmarried couples, LGBT, and others that are prohibited in Islam), restaurants that sell drinks and food that are guaranteed to be *halal*, and travel agents that provide *halal* tour packages; (4) *Halal* tourism supporting services

²⁵Eka Dewi Satriana and Hayuun Durrotul Faridah, "Wisata Halal: Perkembangan, Peluang, Dan Tantangan," *Journal of Halal Product and Research* 1, no. 2 (2018): 34, <https://doi.org/10.20473/jhpr.vol.1-issue.2.32-43>.

²⁶Mohamad Ridwan and Windra Aini, *Perencanaan Pengembangan Daerah Tujuan Pariwisata* (Sleman: Deepublish, 2019), 153.

include tourism organizations and institutions, both government and private, that apply the concept of developing *halal* destinations from planning, implementation, to monitoring.²⁷

The basis of the rules of *fiqh* in *halal* tourism in Indonesia adopted from the *fatwa* DSN-MUI, “All forms of legal *muamalat* are basically allowed unless there is a prohibition from an argument, something that is forbidden to do then it is forbidden to ask/seek, if it is a narrow affair, then (the affair) become widespread, preventing loss takes precedence over benefiting”. Furthermore, several verses of the Qur’an that serve as a reference for the development of *halal* tourism are Qur’an surah Al-Mulk verse 15 which means, “It is He Who made the earth easy for you, so walk in all directions and eat of His sustenance. And to Him you (return after) resurrected”, Qur’an surah Nuh verses 19-20 which means, “And Allah made the earth for you as a stretch, so that you may travel in the vast earth”, Qur’an surah Ar-Rum verse 9 which means, “And do they not travel in the earth and see how the consequences (afflicted) by those before them? Those people are stronger than themselves and have cultivated the earth (soil) and prospered more than what they have prospered. And their messengers have come to them with clear proofs. So Allah will never do wrong to them, but they are the ones who do wrong to themselves”, and Qur’an surah Al-Ankabut verse 20 which means, “Say, walk on (face) the earth, then pay attention to how Allah created (man) from the beginning, then Allah made him again. Verily, Allah has power over all things”.

The *hadith* that is the basis of *fiqh* for *halal* tourism is the *hadith* narrated by Al-Baihaqi which means, “From Ibn Abbas ra. said that the Prophet Saw. said, travel, you will be healthy and fulfilled”. Radd Al-Muhtar who explained that (original law) traveling is permissible but can become worship (obedience) if traveling for purposes related to worship such as *haji* or *jihad*, while if it is done for purposes that are not permitted or not approved by Allah Swt. then traveling for that purpose is classified as an immoral and unlawful.

Until now, the term *halal* tourism is still relatively confusing, where efforts and agreements are needed to clarify the content and

²⁷Meizar Rusli, Riza Firmansyah, and Yustisia Pasfatima Mbulu, “Halal Tourism Destination Development Model,” *Journal of Environmental Management and Tourism* 9, no. 6 (2018): 1298, [https://doi.org/10.14505/jemt.v9.6\(30\).19](https://doi.org/10.14505/jemt.v9.6(30).19).

requirements. There are several concepts put forward in the world using the terms Muslim tourism, Islamic tourism, *halal* tourism, sharia tourism, Muslim friendly tourism, and hotels that have attracted researchers and the tourism industry but they are a little confused because there is no terminological consensus on what it is *halal* tourism.²⁸

Currently, the *halal* tourism standards adopted and used by Indonesia and several other countries in the world today are relatively referring to the standards made by the global *halal* tourism rating agency Global Muslim Travel Index (GMTI), which explains that *halal* tourism standards are family friendly tourist destinations, tourist destinations that must be child and family friendly, security and comfort for Muslim tourists, a large number of Muslim tourist arrivals, Muslim friendly services and facilities, guaranteed *halal* food and drinks with *halal* certificates, access to worship in good condition and easily accessible, an airport that has facilities that are friendly to Muslims, awareness of *halal* and the existence of marketing activities for *halal* tourist destinations, ease of communication, reach and awareness of the daily needs of Muslim tourists, transportation connectivity, especially air transportation, adequate accommodation options, and easy visa requirements.

Sharia standards for Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) also have not regulated *halal* tourism, so sharia standards for *halal* tourism actors relatively follow the appropriate standards, for example sharia standard number nine for *ijarah* contracts, sharia standard number fifteen for *ju'alah* contract, and others.

In Fatwa DSN-MUI No: 108/DSN-MUI/X/2016 concerning Guidelines for the Implementation of Tourism Based on Sharia Principles, DSN-MUI explains that tourism implementation that refers to sharia principles is basically permissible as long as it follows the terms and conditions contained in the *fatwa*.²⁹ The definition of

²⁸Vargas-Sanchez and Moral-Moral, "Halal Tourism: Literature Review and Experts' View," 552.

²⁹DSN-MUI, "Fatwa DSN-MUI No: 108/DSN-MUI/X/2016 Tentang Pedoman Penyelenggaraan Pariwisata Berdasarkan Prinsip Syariah," Dewan Syariah

tourism in the *fatwa* is basically a travel activity carried out to visit a certain place by a group of people or a person for a temporary period to observe and learn about the uniqueness of tourist attractions, recreation, or personal development. Sharia tourism is defined as tourism that does not violate and is in accordance with sharia principles. The definition of tourism is a variety of tourism activities and is supported by various services and facilities provided by the government, local governments, entrepreneurs, and the community. So the definition of sharia tourism is tourism that does not violate and is in accordance with sharia principles. Furthermore, what is meant by, “*Sharia tourism destination is defined as a geographical area located in one or more administrative areas in which there are tourist attractions, tourism facilities, accessibility, worship, and public facilities, as well as communities that complement each other and are related in realizing tourism that does not violates sharia principles*”.

The general principles in the implementation of sharia tourism are that tourism must be protected from disobedience, evil, *tabdzir* (redundant)/*israf* (excessive), polytheism, and evil and can provide benefits both spiritually and materially. The parties directly involved in *halal* tourism activities are tourists, tourism entrepreneurs, sharia hotels, sharia travel agencies (BPWS), tour guides, and workers at the destination, and tour operators and therapists.

From the side of *halal* tourists, they should be obliged to fulfill the requirements and conditions as well as sharia principles by avoiding immorality, damage (*fasad*), shirk, and evil as well as maintaining noble character, maintaining obligations for worship during tourist activities, and not visiting tourist destinations that are not in accordance with or contrary to sharia.

On the other side, *halal* tourist destinations or destinations are required to provide facilities for worship that have good and proper easy access, meet the requirements as prescribed and provide *halal* drinks and food marked with a *halal* certificate. *Halal* tourist locations and destinations must be protected from activities that contain immorality, pornography, adultery, liquor, drugs, and gambling,

as well as performing arts, culture, and attractions that are contrary to sharia principles and avoiding things that are polytheistic and superstitious.

In *halal* tourism activities, accommodation and hotel operators must carry out business principles that are in accordance with sharia and comply with the provisions that sharia hotels may not provide access facilities for immoral acts and pornography, do not facilitate and provide entertainment that leads to immorality, pornography and/or immoral acts, and polytheism, serving drinks and food that have *halal* certificates, providing good and proper equipment, facilities, and facilities for worship, including washing facilities, polite clothing and covering the genitals in accordance with sharia, having guidelines and/or guidelines regarding service procedures that are not contradictory and in accordance with sharia principles, and use the services of sharia financial institutions in all financial activities and services.

In sharia tourism activities, it will certainly involve interaction, transactions, and cooperation among sharia tourism stakeholders where which will create contracts between the parties where the common contracts in sharia tourism are: (1) *Ijarah* contract, which is a contract for a lease transaction for an item and or wages for a service within a certain time, where this occurs between: (a) Tourists with sharia travel agencies; (b) Tourists with tourism entrepreneurs; (c) Tourists with sharia hotels; (d) Tourist with therapist; (e) Sharia travel agency with a tour guide; (2) *Ju'alah* contract, which is a contract in the form of a commitment or promise (*iltizam*) to provide certain rewards (reward/*iwadh/ijul*) for the achievement of results (*natijah*) determined from a job where this contract is used between a sharia travel agency and a tour guide other than *ijarah* contracts are also widely used; (3) *Wakalah bil ujarah* contract which is a contract of granting power to another party to do something that is legally conditional with the provision of wages where this contract is commonly used in sharia hotel marketing activities with sharia travel bureaus under the authority of sharia hotels to market sharia hotel products and services the; (4) Other contracts in accordance with the *fatwa* DSN-MUI and the applicable rules and laws for the closure of tourism insurance,

the management, and development of tourism funds.

The meaning of *halal* tourism which is the basis for the Government of the Republic of Indonesia in developing and building *halal* tourism or *halal* tourism in Indonesia refers to the meaning of *halal* tourism conveyed by Sutono which defines, "*Halal tourism as a set of additional services for amenities, accessibility, and tourist attraction that is intended and provided to meet the desires, needs and experiences of Muslim tourists*".³⁰ *Halal* tourism is not a temporary tourism trend that can appear and disappear it is expected to continue to grow according to the needs of Muslim tourists in the world. *Halal* tourism itself has a very clear, segmented market and is expected to continue to increase in the future. This is because even though Indonesia is a country with a majority Muslim population (86,88% - as of June 2021 - Ministry of Home Affairs),³¹ but considering Indonesia is a pluralistic country (religion and ethnicity), so far the term sharia used for tourism in Indonesia is still debatedable where the tendency of the *halal* tourism concept adopted by the government is more towards Muslim friendly tourism by providing additional amenity services that are intended and provided to meet the desires, needs, and experiences of Muslim tourists. The Ministry of Tourism and Creative Industries stated that the use of the term sharia in tourism in Indonesia has the impression of being exclusive and prohibiting certain religions.

Conclusion

Halal tourism is a segment of the world tourism market whose growth is good in line with the continued growth of the world's Muslim population, the number of a middle class in countries where the population is predominantly Muslim, and the number of world Muslim tourists. This potential causes many countries in the world to focus on serving this tourism segment, both Muslim

³⁰Anang Sutono et al., *Rencana Strategis Pengembangan Pariwisata Halal 2019-2024* (Jakarta: Kementerian Pariwisata Republik Indonesia, 2019), 4.

³¹Viva Budy Kusnandar, "Sebanyak 86,88% Penduduk Indonesia Beragama Islam," Databoks, 2021, [https://databoks.katadata.co.id/datapublish/2021/09/30/sebanyak-8688-penduduk-indonesia-beragama-islam#:~:text=Berdasarkan data Direktorat Jenderal Kependudukan,86%2C88%25\) beragama Islam.](https://databoks.katadata.co.id/datapublish/2021/09/30/sebanyak-8688-penduduk-indonesia-beragama-islam#:~:text=Berdasarkan data Direktorat Jenderal Kependudukan,86%2C88%25) beragama Islam.)

and non-Muslim countries. Unfortunately, until now there is no uniformity and consensus regarding terms, terminology, content, and requirements for *halal* tourism both in the world and in Indonesia. *Halal* tourism standards adopted and used by Indonesia and several other countries in the world today relatively refer to the standards made by the Global Muslim Travel Index (GMTI), while the basic principles of *fiqh* in *halal* tourism in Indonesia are adopted from the Fatwa DSN-MUI No: 108/DSN-MUI/X/2016 concerning Guidelines for the Implementation of Tourism Based on Sharia Principles. The meaning of *halal* tourism which is the basis for the Government of the Republic of Indonesia in developing and building *halal* tourism or *halal* tourism in Indonesia refers to the meaning of *halal* tourism conveyed by Sutono in Ministry of Tourism. which defines *halal* tourism as a set of additional services for amenity, accessibility, and power. A tourist attraction that is intended and provided to meet the desires, needs, and experiences of Muslim tourists. The consideration is because even though Indonesia is a country with a majority Muslim population, Indonesia is a pluralistic country (religion and ethnicity). This shows that the concept of *halal* tourism development in Indonesia tends to be Muslim friendly tourism rather than a more comprehensive *halal* tourism development concept that is in accordance with Islamic teachings. In increasing Muslim tourist visits to Indonesia as a source of foreign exchange, the Government of the Republic of Indonesia should focus more on developing plans for developing *halal* tourism, developing and improving infrastructure and accessibility of leading *halal* tourist destinations, determining the definition and standards of *halal* tourism and compiling it in a law that has a more binding legal force, conduct training and development of human resources for *halal* tourism actors and stakeholders, as well as carry out effective tourism promotions to attract the *halal* tourism target market to visit Indonesia.

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The Overview of Sharia Principles on BSI Mobile Banking

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Abstract

Information technology that has developed so rapidly in recent years has directed the focus of large banks to digital services, including mobile banking. The internet's rapid growth is changing how companies connect with their customers, and the banking business is no exception. Of course, the concept of blessing must be prioritized by every Muslim, especially in banking institutions. This research aims to analyse the BSI Mobile application's existing mobile banking service system. In 2021, Bank Syariah Indonesia (BSI) started to merge 3 (three) Islamic commercial banks in Indonesia, at the same time, to support the development of information technology (especially in banking), BSI has also created a BSI Mobile application to facilitate transactions. This research is qualitative research with a grounded research approach and uses a qualitative descriptive analysis method. However, even though the service system in the BSI Mobile application has met customer needs and is under the basic principles of sharia, many customers or the Muslim community who have not used it do not even know the system and application. Ultimately, it will impact applications that cannot be utilized optimally. Based on the results of research that the researcher have done, the BSI mobile banking service system should emphasize the publication and socialization of BSI Mobile products with various methods, including approaches that use sharia principles because legal regulations will be applied due to threats and legal causes that occur.

Keywords: Sharia Principles; Bank Syariah Indonesia (BSI); Mobile Banking

Abstrak

Teknologi informasi yang berkembang begitu pesat dalam beberapa tahun terakhir telah mengarahkan fokus bank-bank besar ke layanan digital, termasuk mobile banking. Pesatnya pertumbuhan internet mengubah cara perusahaan terhubung dengan pelanggan mereka, dan bisnis perbankan tidak terkecuali. Tentunya konsep berkah harus diprioritaskan oleh setiap Muslim khususnya di lembaga perbankan. Penelitian ini bertujuan untuk menganalisis sistem layanan mobile banking yang ada pada aplikasi BSI Mobile. Pada tahun 2021, Bank Syariah Indonesia (BSI) sudah mulai menggabungkan 3 (tiga) bank umum syariah di Indonesia, sekaligus untuk mendukung perkembangan teknologi informasi khususnya di bidang perbankan, BSI juga telah membuat aplikasi BSI Mobile untuk mempermudah transaksi. Penelitian ini merupakan penelitian kualitatif dengan pendekatan grounded research, dan juga menggunakan metode analisis deskriptif kualitatif. Namun, meskipun sistem layanan pada aplikasi BSI Mobile telah memenuhi kebutuhan nasabah dan sesuai dengan prinsip dasar syariah, namun banyak dari nasabah atau masyarakat Muslim yang belum menggunakannya bahkan belum mengetahui sistem dan aplikasi tersebut. Pada akhirnya akan berdampak pada penggunaan aplikasi yang tidak dapat dimanfaatkan secara maksimal. Berdasarkan hasil penelitian yang telah peneliti lakukan, sistem layanan BSI mobile banking dapat meningkatkan publikasi dan sosialisasi produk BSI Mobile dengan berbagai metode termasuk pendekatan yang menggunakan dalil prinsip syariah, karena secara hukum peraturan akan diterapkan karena adanya ancaman dan sebab hukum yang terjadi.

Kata Kunci: *Prinsip Syariah; Bank Syariah Indonesia (BSI); Mobile Banking*

Introduction

Information technology that has developed so rapidly in recent years has directed the focus of large banks to digital services, including mobile banking. The rapid growth of information technology in this era of globalization requires banking services to be faster, easier, and more flexible. The faster development the internet is changing the way companies connect with their customers, and the banking business is no exception.¹ Of course, the concept of blessing must be prioritized by every Muslim, especially in banking institutions. Blessing means increasing goodness. Blessing is a gift from Allah Swt. that is given to the lives of individuals, communities,

¹Hafid Nur Yudha and Jaka Isgiyarta, "Analisis Pengaruh Persepsi Nasabah Bank Terhadap Internet Banking Adoption (Studi Pada Nasabah Perbankan Yang Menggunakan Internet Banking Di Kota Surakarta)," *Diponegoro Journal of Accounting* 4, no. 4 (2015): 148, <https://ejournal3.undip.ac.id/index.php/accounting/article/view/9568>.

and nations. In the form of goodness that continues to grow, is stable, and provides progress on a broad scale. The conditions of Allah Swt. giving the blessings are clear in the words of Allah Swt., namely faith and *taqwa*. As it is written in the Qur'an surah Al-A'raf verse 96:

وَلَوْ أَنَّ أَهْلَ الْقُرَىٰ آمَنُوا وَاتَّقَوْا لَفَتَحْنَا عَلَيْهِم بَرَكَاتٍ مِّنَ السَّمَاءِ وَالْأَرْضِ وَلَٰكِن كَذَّبُوا فَأَخَذْنَاهُم بِمَا كَانُوا يَكْسِبُونَ

“And if only the people of the cities had believed and feared Allah Swt. We would have opened (i.e bestowed) upon them blessings from the heaven and the earth, but they denied (the Messengers), so we seized them for what they were earning”.

From this verse, it can be concluded that Allah Swt. commands all his people to believe and fear so that Allah Swt. always opens the door of blessing. Conversely, those who ignore this order will be punished for their actions.

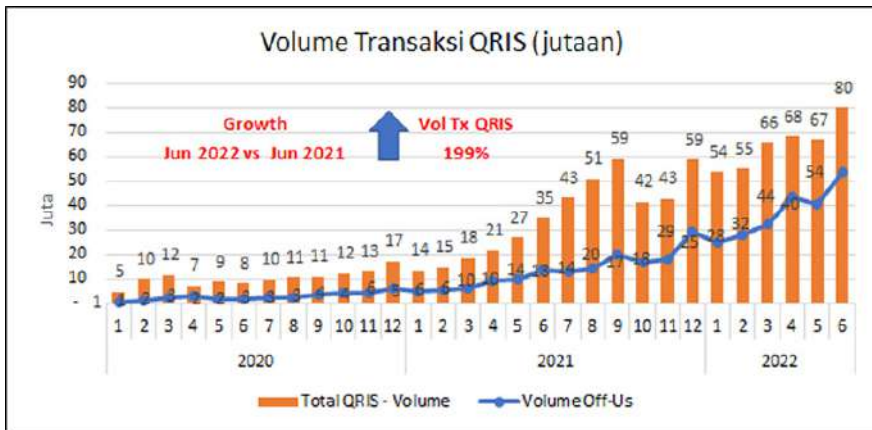
With the growth of information technology, the bank provides services that make it easier for customers to process transactions by launching electronic banking services, better known as e-Banking or electronic banking. As one of the modern information technology media, the internet is currently experiencing very rapid development.² Especially in the economic field, the internet can facilitate information delivery quickly, widely, and accurately.

The development of internet technology is now providing many opportunities to create internet-based business applications. One industrial sector that takes advantage of these opportunities is the banking sector. This opportunity is used in the banking sector to develop service facilities, one of which is mobile banking. Mobile banking service facilities have become a concern for the competition between banks to seize market share. Mobile banking is a banking service provided by banks for their customers to be able to use banking services without space and time limits and also based on

²Muhammad Irkham Firdaus et al., “Investment Cooperation Agreement on Equity Crowdfunding Platform from the Perspective of Sharia Economic Law,” *Al-Iktisab: Journal of Islamic Economic Law* 5, no. 1 (2021): 66, <https://doi.org/10.21111/al-iktisab.v5i1.5626>.

cellular and internet technology which makes it easy to carry out various banking transactions without having to come directly to the bank because it can be accessed at any time.

Figure 1. QRIS Transaction Volume Statistics in Indonesia 2020-2022



Source: Indonesian Payment System Association (ASPI)³

As the Figure.1 explains, QRIS transaction volume in 2020-2022 periodically increases. However, it started to decrease in October 2021, but on November 2021 increased more and more till June 2022, the highest record 80 million transaction volume since QRIS was launched, which was 5 million transactions in January 2020. This increase shows Indonesia’s public interest in using internet-based payment products.

In the development of internet-based products, it is not only conventional banking that takes advantage of this opportunity, but Islamic banking also takes advantage of it. Several Islamic banks that have participated in developing mobile banking as an internet-based product include *Bank Muamalat*, *Bank Syariah Mandiri (BSM)*, *BNI Syariah*, *BRI Syariah*, *Bank Bukopin Syariah*, *Bank Mega Syariah*, *BCA Syariah*, and others. With the existence of product innovations through internet technology services carried out by Islamic banking,

³ASPI, “Statistik,” Indonesian Payment System Association (ASPI), 2021, <https://www.aspi-indonesia.or.id/berita-info/statistik/>.

it is hoped that Islamic bank customers can use and make good use of the facilities available.⁴

Several Islamic banks above merged into one unit to become *Bank Syariah Indonesia (BSI)* starting on February 21, 2021. Banks merged in the BSI set included *BRI Syariah*, *BNI Syariah*, and *Bank Syariah Mandiri*. The mobile banking feature at BSI is then given the name BSI Mobile which can be downloaded on the Playstore and Appstore. Based on the data obtained, as many as 395.000 customers migrated on July 21, 2020.

The features available in the mobile banking application are very diverse, ranging from checking account info, opening an account online without having to go to the bank, and transferring services between BSI or other banks. There is also a paid feature that allows customers to pay certain types of bill payments, Islamic services provide *Juz Amma*, *Asmaul Husna*, *Hikmah*, and *Qurban* calculator to make it easier for customers when they want to make sacrifices. In addition, the *Ziswaf* sharing and e-Mas features are also available for customers who wish to pay *zakat*, *fidyah*, endowments, and participate in the poor wallet. e-Mas is a service that allows customers to purchase, sell, transfer, and withdraw gold.

Judging from the existing developments, BSI acted quickly to lead customers who still use *BRI Syariah*, *BNI Syariah*, and *Bank Syariah Mandiri* banks to be immediately converted into BSI. Likewise, with the socialization of BSI Mobile in which, the bank strongly recommends that every existing customer activate the feature.

In applying Islamic mobile banking, many have questioned whether mobile banking activities at Islamic banks have been based on laws governing the legitimacy of mobile banking activities given sharia principles. One of the factors that become a problem is the extent to which sharia rules and principles are applied in the BSI Mobile application after changing from *BRI Syariah*, *BNI Syariah*, and *Bank Syariah Mandiri*, as well as the extent to which the bank's own ability to identify and eliminate elements of *gharar* in the BSI

⁴Mahmudatus Sa'diyah and Nur Aziroh, "Analisis Faktor-Faktor Yang Mempengaruhi Tingkat Kepercayaan Nasabah Muslim Pengguna Mobile Banking Di Bank Muamalat Indonesia 118 Kantor Cabang Pembantu Kudus," *Equilibrium: Jurnal Ekonomi Syariah* 1, no. 1 (2014): 128, <https://doi.org/10.21043/equilibrium.v1i1.202>.

application mobile. Because of the increasing number of customers and users of BSI Mobile in developing their business and social missions, their operations must be in line with sharia principles and ethical values.

However, still using a system that has been implemented in such a way in Islamic banks, there is still a lack of interest in Muslim citizens to become bank customers in sharia, and using the sharia mobile banking application sees a lack and failure that occurs. The primary risk of Islamic banks is the lack of clarity in their sharia presentation, which risk arises due to violations of the provisions of sharia principles attached to all Islamic banking transactions and related to the supervision carried out by Islamic banking supervisors.⁵ Therefore, the fulfilment of sharia principles in Islamic banks is essential, where supervision aims to determine and assess the actual phenomenon of applying tasks and activities, whether it is appropriate (which is applied) or not.⁶ As in the Qur'an surah An-Nisa' verse 29:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُم بَيْنَكُم بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَن تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

"You who have believed, do not consume one another's wealth unjustly but only (in lawful) business by mutual constant. And do not kill yourselves (or one another). Indeed, Allah is to you ever merciful".

This verse is a strict prohibition on consuming other people's wealth or their wealth in a wrong way. To eat one's wealth with vanity is to spend one's wealth sinfully. Protecting Islamic banking products from all prohibitions requires strengthening sharia principles taken from sources of Islamic laws, namely the *Qur'an*, *Sunnah*, *ijma*, and *ijtihad ulama*, codified in various pieces of literature reviewed

⁵Muhammad Abdul Aziz and Lutfia Nuril Arafah, "Preferensi Dan Perilaku Masyarakat Pedesaan Terhadap Perbankan Syariah (Studi Kasus Di Desa Luwunggede, Mundu, Dan Karangreja)," *Journal of Islamic Economics and Philanthropy (JIEP)* 4, no. 1 (2021): 1010, <https://doi.org/10.21111/jiep.v4i01.5668>.

⁶Mohammad Ainun Najib, "Penguatan Prinsip Syariah Pada Produk Bank Syariah," *Jurisprudence* 7, no. 1 (2017): 16, <https://doi.org/10.23917/jurisprudence.v7i1.4351>.

by scholars or association of scholars in the sharia council both on an international and national scale.⁷ Therefore, Islamic financial institutions development and growth align with sharia principles because sharia principles are one of the characteristics and differentiators of Islamic banks from other banks.

There has never been a legal problem regarding mobile banking, but in the future, there will be a legal problem in the implementation of mobile banking because it will all need the law. On the other side, people who do not understand sharia always ask what and how mobile banking is and how does it operate? Nevertheless, they also have doubts about the implementation of mobile banking. For example, they questioned the difference between mobile banking in conventional and Islamic banks. In the application of Islamic mobile banking, many have questioned whether the mobile banking activities at this Islamic bank have been based on the laws governing the legitimacy of mobile banking activities given sharia principles.

The researchers in an attempt to review further the sharia principles felt by BSI mobile banking users in order to evaluate and make reference to legal guidelines that are felt by BSI Mobile users and to examine the mechanism used to facilitate BSI transaction activities so that will find out the benefits obtained under the guidance of sharia principles on the use of the application. Based on the explanation above, the researcher wants to know how the sharia principles are applied in the BSI Mobile application.

Methodology

The approach used in this research is grounded research, a general methodology for developing a theory. Grounded research is one of the scopes of qualitative research, namely research conducted with in-depth interviews and the research subject's experience. Grounded research can also be called a reflexive and open approach, where data collection, theoretical concept development, and

⁷Novan Fatchu Alafianta, Muhammad Abdul Aziz, and Jaya Sahputra, "A Historical Review of the Development of the Islamic Banking System (An Analytical Study)," *Al-Iktisab: Journal of Islamic Economic Law* 5, no. 2 (2021): 135, <https://doi.org/10.21111/al-iktisab.v5i2.6799>.

literature review occur in a continuous cycle.⁸ Because to answer the formulation of this research is deemed appropriate, namely how the analysis of sharia principles on the use of the BSI mobile banking service system.

Descriptive qualitative techniques were divided into two kinds of data sources to collect primary data in this research. The primary source is data collection by collecting qualitative information through questionnaires and documentation. Data analysis carried out with descriptive qualitative methods has the aim of making a description of the object under research in a systematic, factual, accurate manner with the facts and characteristics between the events or phenomena being investigated.⁹ The analysis process is carried out continuously from start to finish.^{10 11} The analysis process in question includes data interpretation, language translation, word editing, and compiling them in a logical systematic way, so that the resulting description can become a complete concept building that is easy to understand.^{12 13}

The techniques used by researchers in this research are, collecting the results of interviews with related parties and also several documents adapted to the research problem, selecting, sorting, classifying, directing, and discarding data that is not necessary and not under the direction of the research, and organizes the data in a certain way so that it is easy to conclude,¹⁴ drawing conclusions,

⁸Norman K. Denzin and Yvonna S. Lincoln, *Handbook of Qualitative Research* (London: Sage Publications, 2011), 96.

⁹Moh. Nazir, *Metode Penelitian* (Bogor: Ghalia Indonesia, 2005), 63.

¹⁰Muhammad Irkham Firdaus et al., "Implementation of the Qardh Agreement on the Financial Technology Lending Platform in the Development of Small and Medium Enterprises (SME) in Indonesia," *Al-Iktisab: Journal of Islamic Economic Law* 6, no. 1 (2022): 70, <https://doi.org/10.21111/al-iktisab.v6i1.7774>.

¹¹Teguh Eka Prasetya et al., "The Concept of Minimum Wage for Workers in Law No. 11/2020 in the Perspective of Fiqh Muamalah," *Al-Iktisab: Journal of Islamic Economic Law* 6, no. 1 (2022): 83, <https://doi.org/10.21111/al-iktisab.v6i1.7554>.

¹²Abdul Latif Rizqon et al., "Al-Maqrizi's Inflation Concepts and Proof for the East Java Inflation Case 2015-2020," *Al-Iktisab: Journal of Islamic Economic Law* 6, no. 1 (2022): 103-4, <https://doi.org/10.21111/al-iktisab.v6i1.7608>.

¹³Devid Frastiawan Amir Sup, "Metode Penyelesaian Sengketa Dalam Produk Keuangan Syariah," *Palangka Law Review* 2, no. 2 (2022): 30, <https://doi.org/10.52850/palarev.v2i2.4652>.

¹⁴Matthew B. Miles and A. Michael Huberman, *Analisis Data Kualitatif: Buku Sumber Tentang Metode-Metode Baru* (Jakarta: UI Press, 2014), 16.

which is the last part of the research stage where researchers can conclude from the results obtained.¹⁵ So that it can answer the formulation of the problem in this research.

Results and Discussion

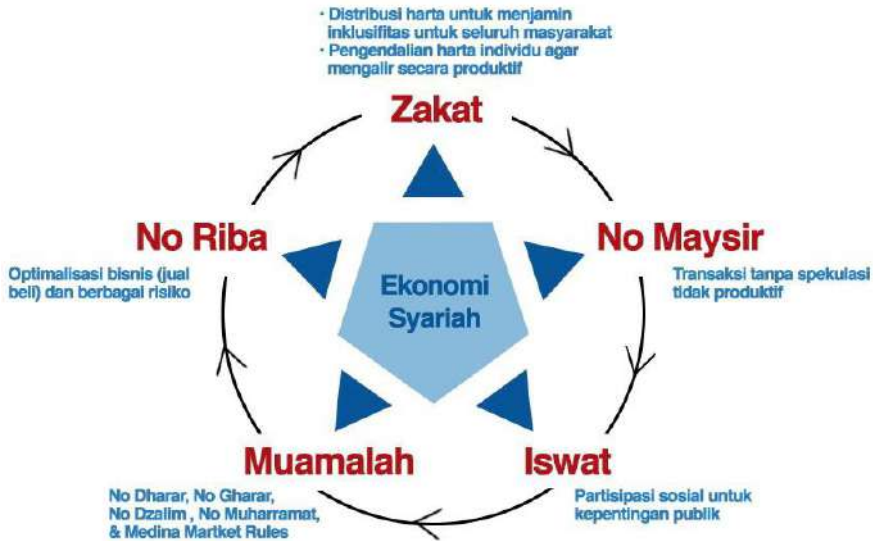
The basic understanding of sharia principles is an agreement based on Islamic law between a bank and another party for depositing funds and or financing business activities or other activities determined under sharia, including financing based on the principle of profit sharing (*mudharabah*), financing based on the principle of equity participation (*musyarakah*), the principle of buying and selling goods with a profit (*murabahah*), or financing of capital goods based on the principle of pure lease without choice (*ijarah*), or with the option of transferring ownership of the goods leased from the bank by another party (*ijarah wa iqtina*). Sharia principles are principles of Islamic law in banking activities based on *fatwa* issued by institutions that have the authority to determine *fatwa* in the field of sharia. In the development of the Islamic economic and financial system, Islam lays down the basic principles in which these principles are implemented in the *zakat* instrument, the prohibition of *riba* and *maysir*, the development of ZISWAF and *muamalah*.^{16 17}

¹⁵Ibid., 18.

¹⁶Muhammad Abdul Aziz et al., "Efektivitas Penerapan Strategi Penghimpunan Dana Zakat Dan Wakaf," *Musyarakah: Journal of Sharia Economics (MJSE)* 1, no. 2 (2021): 159, <https://doi.org/10.2426/10.24269>.

¹⁷Bank Indonesia, "Cetak Biru Pengembangan EKSyar," Bank Indonesia, 2020, <https://www.bi.go.id/id/fungsi-utama/moneter/pengembangan-ekonomi/cetak-biru/Default.aspx>.

Figure 2. Islamic Economic Empowerment



Source: MUI and BI Discussion on 2017¹⁸

In general, several laws and regulations are related to implementing the mobile banking system, among them are UU No. 08/1997,¹⁹ UU No. 36/1999,²⁰ and UU No. 11/2008.²¹ Regulations regarding the mobile banking system are not at all contained in the Civil Code and Commercial Code, but in their application, the use of mobile banking is included in the *wakalah* concept, where transactions that should be carried out face to face are replaced by the system

¹⁸*Ibid.*

¹⁹Indonesia, "Undang-Undang Republik Indonesia Nomor 08 Tahun 1997 Tentang Dokumen Perusahaan," *JDIH-BUMN*, 1997, [https://jdih.bumn.go.id/baca/UU Nomor 8 Tahun 1997.pdf](https://jdih.bumn.go.id/baca/UU%20Nomor%208%20Tahun%201997.pdf).

²⁰Indonesia, "Undang-Undang Republik Indonesia Nomor 36 Tahun 1999 Tentang Telekomunikasi," *DPR-RI*, 1999, https://www.dpr.go.id/dokjdih/document/uu/UU_1999_36.pdf.

²¹Indonesia, "Undang-Undang Republik Indonesia Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik," *DPR-RI*, 2008, <https://www.dpr.go.id/doksetjen/dokumen/-Regulasi-UU.-No.-11-Tahun-2008-Tentang-Informasi-dan-Transaksi-Elektronik-1552380483.pdf>.

contained in the mobile banking application.

Wakalah is a delegation of authority to take actions to other people in accordance with sharia and has been determined by both parties to carry out a particular action, where the delegation of authority will apply as long as the representative is still alive. Based on the conclusions above, the definition of *wakalah* in this research is a representative contract between the bank and the customer in which the customer authorizes the bank as the service provider to represent himself/herself to conduct transactions by utilizing the distribution channel of the BSI Mobile application.

Based on the interviews data, it is known that BSI has mobile banking services that make it easier for customers to make transactions. Customer knowledge in mobile banking can make it easier for customers to use mobile banking, which has several attractive features and appearances that can provide convenience for users of mobile banking transaction services such as purchasing pulses, data packages, electricity payments, insurance payments, and others. Therefore, user customers do not disturb in transacting. The ease of transactions, transfer fees, free administration, and others can cover some obstacles customers encounter. The network of mobile banking users is very influential on transactions. If the customer network of mobile banking users is stable, the customer can make transactions under any conditions and circumstances. The following results from customer interviews can be seen below.

First, the effect of BSI mobile banking on the ease of transactions. The results of several interviews with BSI mobile banking customers said that BSI mobile banking is straight forward because nowadays, almost all situations use mobile internet banking. For example, when a customer wants to pay for e-commerce, there is no need to go to the payment place directly, no need to leave the house, with uncertain weather conditions, so mobile banking is beneficial and accelerates customer mobilization at work. In another interview, it was also stated that customers were interested because the features and appearance of the BSI mobile banking application were better than before the migration of BSI.

Second, the benefits from using BSI Mobile. BSI Mobile users

say that there are no material benefits yet, but they get the advantage of time efficiency to facilitate work mobilization. Meanwhile, other customers and users of BSI mobile banking also mentioned that there are advantages in time efficiency. Based on the results of interviews with BSI managers, it was informed that other advantages over BSI Mobile are prayer schedules, *qibla* direction, *infaq* donations, and the search feature for the nearest BSI-ATM in various areas, which greatly facilitates BSI Mobile users.

Third, data protection and privacy of BSI mobile banking customers. So far, customers are very confident because there have been no cases related to data leakage and others, so customers leave it entirely to the bank, plus, the terms and conditions that existed when first registering in the BSI Mobile application made customers feel safe. Coupled with a PIN code that must be entered to secure. Based on the results of interviews with the manager of BSI explained that BSI Mobile applies two security, namely the password when entering and also the PIN code before confirming the transaction to guarantee.

Fourth, the application of *riba* or multi contract (*multi akad*) in the use of the BSI Mobile application. So far, customers have not found it because the initial purpose of downloading this application is to facilitate inter-bank transfers, even if there are administrative costs, it is not included in the *riba* or multi contract scheme. The results of interviews with customers said they did not pay much attention because they only used it for essential purposes such as account transfers and *wadi'ah* savings. The BSI Mobile application only explains the clarity of the contract scheme and transactions, the rest of the information can be found on the website.

Fifth, offering new products and features over time. Many new features such as *haji* savings, e-Mas, BSI *hasanah* card, are desirable to customers and the bank itself as BSI Mobile activists. The socialization and marketing have been outstanding so that many customers are interested.

Sixth, ease, fast, and real time. In general, all customers and the bank itself stated that using the BSI Mobile application was very easy. This is reinforced because the language used in the application is Indonesian, which is easy to understand. As for real-time problems or not, it is determined by a good internet network. According to

one customer's opinion, still felt confused the first time, but as time passed, it got easier.

Seventh, the reasons that make customers interested in using BSI Mobile. One of the customer stated, "*The main reason is that we are Muslims who want to apply all muamalah based on sharia principles and to be even better in transactions so that we can apply maqashid sharia in all of its products and features*". One of the students using BSI mobile stated, "*What intrigued me is that after every transaction, we are offered and reminded to donate and set aside our wealth, which is the value of worship*". According to other customers' opinions, it is because of the sharia label on BSI, and they want to know how far BSI Mobile itself has applied the sharia principles.

Based on the research results, it is known that the transaction service for customers using BSI mobile banking states that with this application, customers can make transactions anywhere and anytime and assist them in meeting their needs without having to come to BSI. The BSI mobile banking services are an attractive one for customers because they have lovely features and appearance which have Islamic features and have advantages such as prayer schedules, *juz amma*, *asmaul husna*, *hikmah* which contains words that contain *hikmah*, along with transactions related to *ZISWAF* such as *qurban* and *zakat* calculators, *dhuafa* wallets, *zakat* houses, and *fidyah*.

Another factor that affects the attractiveness of using BSI mobile banking is that because customers want to apply the principles and foundations of sharia in their lives, including in terms of transactions, customers decide to use the BSI mobile banking application because of the trust that is built after seeing the sharia label on BSI mobile banking. The features mentioned above make sense of satisfaction in the customer quite large, where the good BSI mobile banking services provide confidence to customers due to reliable and quality BSI mobile banking services. This is evidenced by customer recognition of the speed, accuracy and real-time that is felt while using BSI mobile banking.

The BSI mobile banking service also continues to progress and improve in optimizing the system for mobile banking services by adding more features that make it easier for its customers. This is reinforced by statements from BSI mobile banking customers that

the appearance of the BSI mobile banking application is attractive and sound compared to the sharia mobile banking application before the migration, as well as how it operates on the cellphone excellent and easy to understand. Banks that provide access to mobile banking make it very easy for customers to get financial information because the application can answer services quickly, safely, in real-time, and can be accessed from anywhere and anytime. In delivering the *wakalah* contract, the contract must be conveyed regardless of the customer's condition because the contract is the most crucial part of *muamalah*. As contained in the Qur'an surah Al-Maidah verse 1:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ أُحِلَّتْ لَكُمْ بَهِيمَةُ الْأَنْعَامِ إِلَّا مَا يُتْلَى عَلَيْكُمْ
غَيْرَ مُحِلِّي الصَّيْدِ وَأَنْتُمْ حُرْمٌ إِنَّ اللَّهَ يَحْكُمُ مَا يُرِيدُ

"O you who have believed, fulfill these contracts, and livestock are lawful for you, except for those that will be read to you (that is) by not hunting while you are doing hajj. Verily, Allah sets the laws according to Allah will".

The verse above explains how sharia emphasizes the need to fulfil the contract in all its forms and meanings perfectly. The Qur'an is so firm in fulfilling the contract that every Muslim is obliged to fulfil it and condemns those who waste it.²² This is in accordance with the rules *الأصل في الأمر الوجوب* that the origin in the command indicates mandatory. This rule shows that every argument from the Qur'an and Sunnah, which means an order must be carried out.

In a contract, it is inseparable from the terms and pillars that must be met so that the contract is valid under the provisions of Islamic law, likewise, with the BSI Mobile service system at BSI. The following are the pillars of the *wakalah* contract according to sharia principles based on the Fatwa DSN-MUI No. 10/DSN-MUI/VI/2000:²³ (1) *Ijab qabul* (contract) between representative (the bank as

²²M. Quraish Shihab, *Tafsir Al-Mishbah: Pesan, Kesan, Dan Keserasian Al-Qur'an* (Jakarta: Lentera Hati, 2002), 3.

²³DSN-MUI, "Fatwa DSN-MUI No: 10/DSN-MUI/IV/2000 Tentang Wakalah," Dewan Syariah Nasional - Majelis Ulama Indonesia, 2000, <https://drive.google.com/file/d/0BxTl-INihFyzdWhkNkpRLWd4Qms/view?resourcekey=0-h2oKAFkz4IEhfSjz6l28pg>.

the institution providing BSI mobile banking services) and *muwakkil* (customers/users of BSI mobile banking services); (2) Authorizers (*muwakkil*), in this case, are customers who represent their affairs to the bank for work; (3) In this case, the proxies (*wakil*) are mobile banking service providers with national coverage and have been operating in all regions of Indonesia; (4) The object of the contract (*taukil*), in this case is the balance in the bank account where the balance can be used to make transactions in accordance with BSI mobile banking service features such as online interbank transfers, paying electricity bills, buying credit, and still much more.

The requirements for *wakalah* according to the Fatwa DSN-MUI No. 10/DSN-MUI/VI/2000:^{24 25 26} (1) The terms of *shigah* (*ijab qabul*) must be stated by the parties to show their will to enter into a contract (*akad*). *Ulama* agreed to set three conditions in the *ijab qabul*, namely: (a) *Ijab* and *qabul* must be clear in their meaning so that they can be understood by the party holding the contract; (b) *Ijab* and *qabul* must be appropriate and not interrupted by other activities between *ijab* and *qabul*; (2) *Ijab* and *qabul* must continue and be in a place that if both parties are present, or in a place known to both of them: (a) The endorser (*muwakkil*) among the conditions for *muwakkil* contained in the *fatwa* of DSN-MUI; (b) The legal owner who can act on something that is represented. If the person represented is not the owner or supervisor, the *wakalah* is void. The practice is in BSI mobile banking where only the account holder can register for BSI Mobile, this is related to the signature affixed to the form when registering as a medium for the implementation of the *ijab qabul*. So it can be said that these conditions are met; (3) *Mumayyiz* people or children within certain limits. In practice, the bank will only offer products or services according to age and needs. Based on these needs and age, the bank will choose to offer mobile banking services or not; (4) Recipient (representative). Among the requirements for representatives contained in the *fatwa* of DSN-MUI are as follows: (a)

²⁴*Ibid.*

²⁵Muhammad Irkham Firdaus et al., "Implementasi Akad Murabahah Terhadap Platform Peer to Peer Lending," *Muamalatuna* 13, no. 1 (2021): 8, <https://doi.org/10.37035/mua.v13i1.4582>.

²⁶Rachmad Syafe'i, *Fiqh Muamalah* (Bandung: CV Pustaka Setia, 2001), 51–52.

Legal competence, in this research, the legal recipient (representative) is a party to the BSI mobile banking service system; (b) Can carry out the tasks assigned to him. In practice, BSI mobile banking is one of the main services owned by BSI, and has even undergone an upgrade in terms of the features provided. This indicates that the system organized by the bank can properly represent all the tasks assigned to it; (5) The object of the contract or the things that are represented among, among the requirements for the object of the contract contained in the *fatwa* of DSN-MUI are as follows: (a) Clearly known by the person representing. In practice, the object of the contract is in the form of a balance in the customer's account, where the balance can be used to make transactions using BSI mobile banking as needed. In the BSI Mobile application, all forms of features are symbolized by images and descriptions when pressing the image. With this information, it is hoped that the transaction process can be carried out according to customer needs; (b) Does not conflict with Islamic law and can be represented according to sharia principles.

Furthermore, transparency in the additional fees charged to customers, based on sharia principles, rewards or fees in the *wakalah* contract process, is determined by both parties so that the consensual process as the basis for *muamalah* can be carried out correctly. However, in the BSI mobile banking application service, the bank determines all forms of pure rewards. Initially, before a transaction with BSI Mobile is processed, the total cost to be paid by the customer will appear as well as the nominal additional fee. In this case, the customer can choose between continuing the transaction process or not.

Accordingly, the applicable provisions' explanation is openly related to human resources. In practice, the applicable provisions in the BSI mobile banking service are only written in the registration form without any direct explanation from the customer service. This makes some customers not read carefully and not even know that there are written provisions, the bank should reinforce explaining the written provisions.

From the explanation above, it can be concluded that the law of *wakalah* contract on BSI mobile banking services is permissible because the conditions and pillars contained in the Fatwa DSN-MUI

No. 10/DSN-MUI/VI/2000 are fulfilled. However, regarding the implementation of the implementation operational standards, the bank must carry out an upgrade so that the contract can be conveyed clearly and all the provisions contained in the service can be conveyed to the customer in accordance with the written standard operational implementation.

Conclusion

This research reveals that the mechanism for using BSI mobile banking has met the principle of policy in Islamic banking, where mobile banking is very influential in facilitating customer productivity and mobility because it can be used anytime and anywhere. The application of a service system that is included in the *wakalah* contract category where the BSI mobile banking also provides objects that can be represented, namely Islamic services ranging from *zakat*, *infaq*, *shadaqah*, *hikmah* to reminders and prayer schedules that attract the attention of *Muslim* customers to participate in carrying out Allah Swt. commands besides busy transacting. BSI mobile banking meets financial needs in its duties as banking support and fulfils social and spiritual needs to achieve the objectives set out in sharia principles. The BSI mobile banking application has implemented a mobile banking service system based on sharia principles. This is indicated by the existence of indicators of Islamic banking principles free from elements of *gharar*, *riba*, and *maysir*. Supporting factors also reinforce this in terms of justice, where customers feel safe from crimes and irregularities in the application that can cause losses. It can be concluded that the law of the *wakalah* contract on BSI mobile banking services is permissible because the conditions and pillars contained in the Fatwa DSN-MUI No. 10/DSN-MUI/VI/2000 are fulfilled.

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The Role of Sharia Ta'awun Cooperative in Empowering the Community Economy (Case Study of Sharia Ta'awun Cooperative Klaten Regency)

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Abstract

This research aims to determine the role of sharia ta'awun cooperatives in community economic empowerment and to find out the opportunities and challenges that exist in sharia ta'awun cooperatives. This type of research is field research, which is carried out using qualitative research. This research method obtains data by means of interviews, documentation, and voice recordings. This research was conducted at the Sharia Ta'awun Cooperative, Klaten Regency. Sources of data used are primary data and secondary data. The data analysis technique used is descriptive qualitative type using a deductive mindset, namely by comparing theory with case studies from the field. The result of this research is the role of sharia ta'awun cooperatives in empowering the community's economy, namely by lending business capital to people in need in order to meet the needs of people's lives and achieve community welfare. While the opportunity in sharia ta'awun cooperative is to provide capital loans and also provide SHU for members who have long been established. In addition, the challenges faced by sharia ta'awun cooperatives are the lack of understanding of

the sharia system applied by these cooperatives and the large number of conventional banks that now offer capital loans at low-interest rates.

Keywords: *Role; Cooperatives; Empowering; Community Economy*

Abstrak

Penelitian ini bertujuan untuk mengetahui peran koperasi syariah ta'awun dalam pemberdayaan ekonomi masyarakat serta untuk mengetahui peluang dan tantangan yang ada pada koperasi syariah ta'awun. Jenis penelitian ini adalah penelitian lapangan, yang dilakukan dengan menggunakan penelitian kualitatif. Metode penelitian ini memperoleh data dengan cara wawancara, dokumentasi, dan rekaman suara. Penelitian ini dilakukan di Koperasi Syariah Ta'awun Kabupaten Klaten. Sumber data yang digunakan adalah data primer dan data sekunder. Teknik analisis data yang digunakan adalah tipe deskriptif kualitatif dengan menggunakan pola pikir deduktif, yaitu dengan membandingkan teori dengan studi kasus dari lapangan. Hasil dari penelitian ini adalah peran koperasi syariah ta'awun dalam pemberdayaan ekonomi masyarakat yaitu dengan meminjamkan modal usaha kepada masyarakat yang membutuhkan guna memenuhi kebutuhan hidup masyarakat dan mencapai kesejahteraan masyarakat. Sedangkan peluang dalam koperasi syariah ta'awun adalah memberikan pinjaman modal dan juga memberikan SHU bagi anggota yang telah lama berdiri. Selain itu, tantangan yang dihadapi oleh koperasi syariah ta'awun adalah kurangnya pemahaman tentang sistem syariah yang diterapkan oleh koperasi tersebut dan banyaknya bank konvensional yang sekarang menawarkan pinjaman modal dengan suku bunga rendah.

Kata Kunci: *Peran; Koperasi; Pemberdayaan; Ekonomi Masyarakat*

Introduction

Indonesia is a developing country that has abundant natural resources but cannot be separated from the problems of poverty and unemployment.¹ The level of poverty and unemployment has resulted in the inhibition of community economic growth and increased crime in a region or country.² Efforts to overcome poverty and unemployment are by working. Financial institutions become a new alternative to meet the needs of the community. The impact of

¹Maulida Indriani, "Peran Tenaga Kerja Indonesia Dalam Pembangunan Ekonomi Gema Keadilan," *Gema Keadilan* 3, no. 1 (2016): 81, <https://doi.org/10.14710/gk.2016.3644>.

²Iwan Hermawan, "Analisis Eksistensi Sektor Pertanian Terhadap Pengurangan Kemiskinan Di Pedesaan Dan Perkotaan," *Mimbar: Jurnal Sosial Dan Pembangunan* 28, no. 2 (2012): 145, <https://doi.org/10.29313/mimbar.v28i2.348>.

the existence of these financial institutions helps the community to fulfill various needs and the businesses run by the community are increasingly advanced and developed.

Cooperative is an autonomous organization located in a socio-economic environment that benefits every member and administrator,³ whose goal is to improve the welfare of the community and participate in developing the national economic order in order to create an advanced, fair, prosperous economy. According to Article 1 of Law No. 25/1992 concerning Cooperative, Article 3 of Law No. 12/1967 concerning the Principles of Cooperatives, cooperative is a business entity or cooperative legal entity consisting of individuals and its activities are based on cooperative principles and as a people's economic movement based on the principle of kinship.^{4 5}

In Indonesia, there are two types of cooperatives, namely sharia cooperatives and conventional cooperatives. Conventional cooperatives take advantage of applying an interest system to each customer. Meanwhile, sharia cooperatives do not apply a usury (interest) system, but with a profit-sharing system based on sharia principles and prioritizing the principle of kinship.⁶ Business activities in sharia cooperatives apply the principles of sharia law and are engaged in investment in the form of profit sharing, savings, and financing. Sharia cooperatives also carry out activities in the field of collecting and distributing *zakat*, *infaq*, and *shadaqah* funds to people who need them more and are entitled to receive them. Sharia cooperatives are considered as a forum that helps improve the

³Lutfiyah Rijma Hanna, "Peranan Koperasi Jasa Keuangan Syariah (KJKS) Perambabulan Al-Qomariyah Dalam Memberdayakan Perdagangan Usaha Kecil (Di Desa Babadan, Kecamatan Gunung Jati, Kabupaten Cirebon)" (IAIN Syekh Nurjati Cirebon, 2012), 87, <http://repository.syekhnurjati.ac.id/318/>.

⁴Abdulalh Safe'i, "Koperasi Syariah: Tinjauan Terhadap Kedudukan Dan Peranannya Dalam Pemberdayaan Ekonomi Kerakyatan," *Media Syariah* 14, no. 1 (2012): 42, <https://doi.org/10.22373/jms.v14i1.1718>.

⁵Devid Frastiawan Amir Sup et al., "Tipologi Koperasi Umum Dan Syariah," *Al-Intaj: Jurnal Ekonomi Dan Perbankan Syariah* 8, no. 2 (2022): 254, <https://doi.org/10.29300/aij.v8i2.6327>.

⁶Gunardi et al., "Analisis Yuridis Eksistensi Badan Hukum Koperasi Sebagai Sarana Kemajuan UMKM," *Jurnal Muara Ilmu Sosial, Humaniora, Dan Seni* 6, no. 1 (2022): 260, <https://doi.org/10.24912/jmishumsen.v6i1.13551.2022>.

economy and the business world in accordance with sharia principles.

The impact of the existence of the sharia cooperative is that it can meet the needs of life and start a community business without the need to spend more of their own money.⁷ So that a prosperous and just society is created. Therefore, sharia cooperatives must continue to be developed. In Qur'an surah Al-Maidah verse 2 explains that as long as humans want to do something good and do not sin, they must help each other. Then also explained that the teachings given regarding justice for others and even those who are hated are also commendable. Sharia cooperatives should be one of the main choices for the community considering that Muslims have an obligation to apply sharia principles in their daily lives. Sharia cooperatives have been able to provide solutions to the problems experienced by the community.⁸

Sharia cooperatives must serve the community as optimally as possible, so that with the trust and growth of the community towards cooperatives, it will progress. Sharia cooperatives are one of the financial institutions that aim to improve the welfare of the community, as well as to build an economic business order based on the values of justice and Islamic economic principles. Sharia cooperatives also build a people's economy that is shown for the lower middle class by conducting community empowerment programs through financing for small, micro, and medium enterprises.⁹

The Sharia *Ta'awun* Cooperative is a sharia cooperative located in Klaten Regency which has helped empower the surrounding community. Sharia *Ta'awun* Cooperative have an important task for the surrounding community, especially in helping to meet the needs of life, both secondary and primary needs. Sharia *Ta'awun* Cooperative

⁷Darlin Rizki, Fauzul Hanif Noor Athief, and Dewi Puspitaningrum, "Penerapan Manajemen Risiko Pada Pembiayaan Bermasalah Pada Masa Pandemi Covid-19," *Al-Iqtishod* 10, no. 2 (2022): 28, <https://doi.org/10.37812/aliqtishod.v10i2.525>.

⁸Endi Sarwoko, "Analisis Peranan Koperasi Simpan Pinjam / Unit Simpan Pinjam Dalam Upaya Pengembangan UMKM," *Modernisasi* 5, no. 3 (2009): 179, <https://ejournal.unikama.ac.id/index.php/JEKO/article/view/227>.

⁹Hoirul Amri, "Membangun Kesadaran Masyarakat Pinggiran Melalui Baitul Maal Wat Tamwil (BMT)," *Islamic Banking: Jurnal Pemikiran Dan Pengembangan Perbankan Syariah* 4, no. 1 (2018): 17, <https://doi.org/10.36908/isbank.v4i1.51>.

strive to help build community businesses from weak economic groups in order to achieve a good standard of living.¹⁰

Therefore, it is important to review research on this Sharia *Ta'awun* Cooperative. The research was conducted by means of qualitative research with data sources from observations, interviews, and documentation. In this research, researchers will analyze the role of Sharia *Ta'awun* Cooperative in empowering the community's economy and analyze the opportunities and challenges in Sharia *Ta'awun* Cooperative.

Methodology

This research is a field research conducted using qualitative research by observing in detail the role of Sharia *Ta'awun* Cooperative in empowering the community which will be analyzed in the form of a description. This research that aims to understand the phenomena experienced by research subjects,¹¹ then used to obtain a broader descriptive picture of the observed phenomena.¹² This research was conducted at the Sharia *Ta'awun* Cooperative, Klaten Regency. This qualitative research refers to primary data obtained from managers and administrators of the Sharia *Ta'awun* Cooperative to obtain the data needed by researchers. Then the secondary data in this research was conducted to learn more about the research material and organizational structure of the Sharia *Ta'awun* Cooperative.

Data collection techniques in this research were collected using observation, interviews, and documentation techniques.¹³ This observation was obtained from seeking and finding information for

¹⁰Arif Eko Wahyudi Arfianto and Ahmad Riyadh U. Balahmar, "Pemberdayaan Masyarakat Dalam Pembangunan Ekonomi Desa," *JKMP (Jurnal Kebijakan Dan Manajemen Publik)* 2, no. 1 (2014): 61, <https://doi.org/10.21070/jkmp.v2i1.408>.

¹¹Miftachul Choiri Umar Sidiq, *Metode Penelitian Kualitatif Di Bidang Pendidikan* (Ponorogo: CV. Nata Karya, 2019), 221.

¹²Muhammad Ramadhan, *Metode Penelitian* (Surabaya: Cipta Media Nusantara (CMN), 2021), 81.

¹³Dini Puspitasari et al., "The Basic Concepts of Preparation and Presentation of Islamic Financial Statements," *Al-Iktisab: Journal of Islamic Economic Law* 6, no. 1 (2022): 6, <https://doi.org/10.21111/al-iktisab.v6i1.7323>.

managers and customers at the Sharia *Ta'awun* Cooperative to obtain data. This interview technique obtained data from interviewing managers, administrators of the Sharia *Ta'awun* Cooperative, customers, and figures around the Sharia *Ta'awun* Cooperative. The documentation technique is the evidence obtained during interviews and observations to managers and customers at the Sharia *Ta'awun* Cooperative. The analysis process is carried out continuously from start to finish.¹⁴ The analysis process in question includes data interpretation, language translation, word editing, and compiling them in a logical systematic way, so that the resulting description can become a complete concept building that is easy to understand.¹⁵

Results and Discussion

Sharia cooperatives have a role as an economic business entity in charge of helping people who have limited expertise, whose business activities are engaged in investment with a profit sharing, financing and savings system.¹⁶ According to Law No. 25/1992, the role of cooperatives is very strategic in developing the economic potential of the people and in realizing the ideals of democracy, unity, togetherness, kinship, and an open people's economic life.¹⁷ This can be seen from the current reality that most of us come from weak economic conditions. Therefore, sharia cooperatives must be able to be independent and increase their business potential so that they can play a role in improving people's welfare as a tool

¹⁴Mohammad Ghozali, Norazzah Binti Kamri, and M. Ali Zi Khafid, "The Merger of Indonesian Islamic Banks: Impact on the Islamic Economy Development," *Al-Iktisab: Journal of Islamic Economic Law* 6, no. 1 (2022): 28, <https://doi.org/10.21111/al-iktisab.v6i1.7551>.

¹⁵Hidayatul Sibyani et al., "Investing in the Afterlife as a Bridge to Financial Freedom (Study on Pekalongan City BWI Representative)," *Al-Iktisab: Journal of Islamic Economic Law* 6, no. 1 (2022): 47, <https://doi.org/10.21111/al-iktisab.v6i1.7329>.

¹⁶Jamal Wiwoho, "Peran Lembaga Keuangan Bank Dan Lembaga Keuangan Bukan Bank Dalam Memberikan Distribusi Keadilan Bagi Masyarakat," *Masalah-Masalah Hukum* 43, no. 1 (2014): 90, <https://doi.org/10.14710/mmh.43.1.2014.87-97>.

¹⁷Mukhtar Abdul Kader, "Peran UKM Dan Koperasi Dalam Mewujudkan Ekonomi Kerakyatan Di Indonesia," *Jurnal Riset Bisnis Dan Manajemen* 8, no. 1 (2018): 25, <https://ojs.unikom.ac.id/index.php/jurisma/article/view/995/741>.

to advance the people's economic struggle. For this reason, the development of sharia cooperatives will provide encouragement to improve the standard of living of its members in particular and all levels of society.¹⁸ Sharia cooperatives have an important role in the midst of society, especially in the ongoing process of the economy in the community based on sharia principles and the values of Islamic teachings in order to achieve prosperity. For example, the *ta'awun* cooperative which was established in Klaten Regency is well known by the public as an institution that helps the economy of the surrounding community through empowerment and financing programs for small, micro, and medium enterprises.

The researcher conducted direct interviews with respondents to obtain information data related to the role of this institution in empowering the community by using primary data in this research. Primary data is the main data that the authors get from the first party. The following is a list of member respondents and respondents from the Sharia *Ta'awun* Cooperative which can be seen in the following table.

Table 1. Data on Member Respondents in Sharia *Ta'awun* Cooperative

No	Name	Age	Profession	Member Time
1	Nur Hidayati	37	Manager	13 Years
2	Tukiman	68	Retired	10 Years
3	Suhana	47	Fringe Merchant	8 Years
4	Siti Marfuah	46	Ice Merchant	7 Years

Source: Interview of Respondents at Sharia *Ta'awun* Cooperative

The respondent's data in Sharia *Ta'awun* Cooperative is based on their work. The respondent's data is based on the work in Sharia *Ta'awun* Cooperative as follows:

¹⁸Fauzul Hanif Noor Athief, "Koperasi Konvensional vs Koperasi Syariah," in *Ekonomi Konvensional vs Ekonomi Syariah* (Lhokseumawe: IAIN Lhokseumawe, 2022), 175.

Table 2. Data of Sharia Ta'awun Cooperative Respondents Based on Their Work

No	Profession	Total
1	Trader	80 People
2	House Wife	20 People
3	Self Employed	40 People
4	Teacher	15 People
5	Private Sector Employee	35 People
6	Laborer	10 People
Total		200 People

Source: Primary Data from Sharia Ta'awun Cooperative

According to information from Sharia Ta'awun Cooperative Manager, Mrs. Nur Hidayati explained that the role of Sharia Ta'awun Cooperatives is to provide loan capital to the community for their business. This business capital can improve the quality of business and be able to increase empowering community welfare and teach the community to be more independent. According to the customer's statement, Mr. Tukiman explained that Sharia Ta'awun Cooperative has played a role in empowering the community because Sharia Ta'awun Cooperative provides capital assistance for the welfare of the people. He chose Sharia Ta'awun Cooperative because the cooperative provides loans/financing with sharia principles and uses a profit-sharing system that can be profitable for customers. Then the sharia cooperative also provides legal services in accordance with the provisions of Islamic teachings. According to the customer's statement, Mr. Suhana explained that he chose to become a customer in this cooperative because it was fast in service and also relatively easy to make loans. The benefits he felt from the existence of the cooperative were to launch a business, one of which was providing capital assistance for him which was used to open an "angkringan" trading business at University of Muhammadiyah Yogyakarta and to send his children to school. According to Mrs. Siti Marfuah as a customer at Sharia Ta'awun Cooperative, she chose Sharia Ta'awun

Cooperative because the process of borrowing capital is easy and in accordance with sharia principles. He borrowed capital from the cooperative to open a business selling ice in the villages of Padasan, Gunung Gajah, Bayat, and also to pay for his children's schooling.

Based on the data obtained by the researcher from interviews between managers and customers at the Sharia *Ta'awun* Cooperative in Klaten Regency, it can be concluded that the Sharia *Ta'awun* Cooperative has realized the role of cooperatives as described in the Law No. 25/1992, namely in developing potential in community business activities as well as realizing the people's economy in improving the quality of life for the better. Sharia *Ta'awun* Cooperatives are in great demand by people from the poor to the lower middle class because they can make people more independent in advancing the economy in their families and are able to help the needs of family life.

Sharia *Ta'awun* Cooperative also provides policies to perfect this role for members of Sharia *Ta'awun* Cooperative. Based on the results of interviews from Sharia *Ta'awun* Cooperative Manager, Mrs. Nur Hidayati explained about the policies that exist in the cooperative, namely the lending/financing system provided to cooperative customers in accordance with the profit-sharing system. When a customer makes a loan for a business, the cooperative will not burden the customer when they make monthly installments for borrowing capital and are adjusted to the ability of the customer.¹⁹ For Sharia *Ta'awun* Cooperatives themselves, they do not set the same as conventional banks. For this reason, the margin and profit sharing of bargaining with cooperative members are in accordance with the ability of the customer and the profits obtained by each customer are not the same as the others.²⁰

¹⁹Ahmad Muqorobin and Muharrik Fitragara Fachreza, "Model Jual Beli Angsuran Di Perbankan Syariah," in *Proceedings of 2nd Annual Conference for Muslim Scholars (AnCoMS)* (Surabaya: UIN Sunan Ampel Surabaya, 2018), 388, <https://doi.org/10.36835/ancoms.v0iSeries%201>.

²⁰Faris Shalahuddin Zakiy and Fauzul Hanif Noor Athief, "Metode Perhitungan Penentuan Harga Jual Pada Pembiayaan Murabahah Di Perbankan Syariah," *El-Dinar* 3, no. 1 (2015): 8, <https://doi.org/10.18860/ed.v3i1.3334>.

The existence of Sharia *Ta'awun* Cooperative is also a real response to the social and economic situation of small communities, especially workers, traders, housewives, entrepreneurs, and low-level private employees, where basically they need a forum that can help the individual and collective economy. Furthermore, Sharia *Ta'awun* Cooperative in empowering the community's economy has a good impact on the community's economic growth, which is greatly helped by the existence of financing. The empowerment of the community is in helping the community from being helpless to being empowered in achieving prosperity which is part of justice which is the main value in Islamic economic principles. One of the efforts in empowering the economic potential of the people and building an independent society gives birth to many new entrepreneurs.²¹ One of the efforts of Sharia *Ta'awun* Cooperative in empowering the economic potential of the people and building an independent society gives birth to as many new entrepreneurs as possible.

The community still lacks knowledge to conduct transactions in Sharia *Ta'awun* Cooperatives. Sharia *Ta'awun* Cooperative provides an understanding of very promising prospects for the business world and provides direction to the community in running a business that is always based on Islamic economic principles and sharia law. So that it can improve the quality of life of members and make them trustworthy, professional (*fathonah*), consistent, and consistent (*istiqomah*).²² ²³ There are still many people around Sharia *Ta'awun* Cooperative who do not have a savings book account. This is used as a promotional medium by Sharia *Ta'awun* Cooperative to open new

²¹Annas Syams Rizal Fahmi and Ahmad Muqorobin, "SWOT Analysis of Marketing Strategies on Services in Islamic Financial Institutions (Case Study at KJKS (Sharia Financial Services Cooperative) BMT La Tansa Gontor Ponorogo)," *Al-Iktisab: Journal of Islamic Economic Law* 4, no. 2 (2020): 153, <https://doi.org/10.21111/al-iktisab.v4i2.5396>.

²²Darlin Rizki, "ZIS (Zakat, Infaq, and Alms) Funds Management Methods in Improving the Quality of Mustahiq Life in BAZNAS Karanganyar," *Al-Falah: Journal of Islamic Economics* 6, no. 1 (2021): 29, <https://doi.org/10.29240/alfalah.v6i1.2596>.

²³Triana Sofiana, "Konstruksi Norma Hukum Koperasi Syariah Dalam Kerangka Sistem Hukum Koperasi Nasional," *Jurnal Hukum Islam* 12, no. 2 (2014): 144, <https://doi.org/10.28918/jhi.v1i1.535>.

savings accounts with lower savings rates compared to conventional banks.

Sharia *Ta'awun* Cooperatives have a policy of providing SHU (residual income) and THR (holiday allowances) which are given to members every year. Sharia *Ta'awun* Cooperative also has a program for providing funds to cooperative members whose economy is still limited.²⁴ The policy of presenting SHU, THR, and compensation funds is an opportunity for Sharia *Ta'awun* Cooperatives to attract people to become members of Sharia *Ta'awun* Cooperatives.²⁵ So that the Sharia *Ta'awun* Cooperative has the opportunity to have great access to capital, prospective new members of the Sharia *Ta'awun* Cooperative can increase access to capital which can then increase SHU and THR every year. Sharia *Ta'awun* Cooperatives in accessing capital permits for a business with relatively easy services that aim to maintain a balance for the creation of welfare for all people.

Sharia cooperatives are being faced with challenges that need to be addressed properly, the challenge of sharia cooperatives today is that many people do not understand sharia that implements a pure sharia system. This is due to the lack of competent human resources and people who are familiar with the sharia side but neglect themselves to cooperative members. Another challenge is to understand the community about the sharia system. In the sharia system, Sharia *Ta'awun* Cooperative aims to explain to the public about *mudharabah*, *murabahah*, and *ijarah* loans which are very difficult to understand to the surrounding community. Competition is getting tougher between conventional banks and sharia cooperatives, because conventional banks offer credit at lower interest rates than sharia cooperatives.²⁶ However, banks apply an interest system as a profit,

²⁴Andi Nugraha, "Pengembangan Masyarakat Pembangunan Melalui Pendampingan Sosial Dalam Konsep Pemberdayaan Di Bidang Ekonomi," *Jurnal Ekonomi Modernisasi* 5, no. 2 (2009): 121, <https://doi.org/10.21067/jem.v5i2.243>.

²⁵Nur S. Buchori, "Koperasi Dalam Perspektif Ekonomi Syari'ah," *Maslahah* 1, no. 1 (2010): 105, <https://doi.org/10.33558/maslahah.v1i1.1203>.

²⁶Ahmad Muqorobin and Eko Nur Cahyo, "Parameter Pengembangan Produk-Produk Perbankan Syariah Dengan Pendekatan Maqasid Syariah (Studi Kasus Di Perbankan Syariah Kabupaten Ponorogo)," *Islamic Economics Journal* 5, no. 2 (2019): 289, <https://doi.org/10.21111/iej.v5i2.4004>.

while sharia cooperatives and BMT are income or profit sharing to serve their customers. The products of sharia savings and loan cooperatives are almost the same as sharia banks, but their capital products are different. The capital product in sharia savings and loan cooperatives is called a deposit, while for a sharia bank it is a savings capital product.²⁷ The lack of effort in the performance of cooperative members causes services in sharia cooperatives to be less effective.

Conclusion

Based on the research that has been done, there are several things found in this research, namely Sharia *Ta'awun* Cooperative plays a role in empowering the community's economy, namely providing access to capital to people whose economic class is middle to lower to improve people's welfare. With the result of presenting the capital, it is to meet the previously limited consumptive needs to be better with the existence of the sharia cooperative. Then the opportunities and challenges of Sharia *Ta'awun* Cooperative are opportunities that can attract people to become members of the cooperative, including Sharia *Ta'awun* Cooperative providing credit to cooperative members to open SHU, THR, as well as providing funds to cooperative members. So that the policy can attract people to become members of Sharia *Ta'awun* Cooperative. In addition, many people around Sharia *Ta'awun* Cooperative do not have a savings book account. This is used by Sharia *Ta'awun* Cooperative as a promotion to the public to be able to open new savings book accounts. Meanwhile, the challenge faced by Sharia *Ta'awun* Cooperative is the lack of public understanding of the profit sharing system implemented in the sharia cooperative. In addition, the community's competition with banks that offer the public to make loans with low interest rates and also lacks understanding of the sharia system in the cooperative.

²⁷Intan Nurrachmi and Setiawan, "Peran Koperasi Syariah Sebagai Pusat Kegiatan Muamalah Jamaah Masjid (Studi Kasus Koperasi Syariah Baitul Mu'min Komplek Pasir Jati, Desa Jati Endah, Kecamatan Cilengkrang, Kabupaten Bandung)," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi, Dan Keagamaan* 7, no. 1 (2020): 66, <https://doi.org/10.29300/mzn.v7i1.2886>.

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Transliteration Guidelines

Arabic romanization in *Al-Iktisab* refers to the transliteration system of Library of Congress (LC) combined with the model of Department of Religious Affairs of Indonesia which based on Joint Decree Letter between Ministry of Religious Affairs and Ministry of Education and Cultural.

b = ب	dz = ذ	ṭ = ط	l = ل
t = ت	r = ر	ẓ = ظ	m = م
ts = ث	z = ز	‘ = ع	n = ن
j = ج	s = س	gh = غ	w = و
ḥ = ح	sy = ش	f = ف	h = ه
k = ك	ṣ = ص	q = ق	’ = ء
d = د	ḍ = ض	k = ك	y = ي

1. The transliteration system of Library of Congress (LC) and Department of Religious Affairs of Indonesia:

For *madd* and diphthongs:

ā	=	a long
ī	=	i long
ū	=	u long
او	=	aw
او	=	uw
اي	=	ay
اي	=	iy

2. Examples:

√ The person's name is written in Indonesian without transliteration.

Example: al-Syahrastani, not as-Syahrastāni, written as usual and not italic.

- √ For the foreign terms are not entered into the Indonesian language, written as the original and italics, instead of the underscore.

Example: *al-qawā'id al-fiqhiyyah; isyrāqiyyah; 'urwah al-wutsqā*

While foreign terms that have been popular and entry into the Indonesian language, written in plain, without transliteration.

Example: al-Qur'an, not al-Qur'ān; objektif, not objektive.

- √ The title of the book is written as the original and italics.

Example: *Irsyād al-Fuḥūl*.